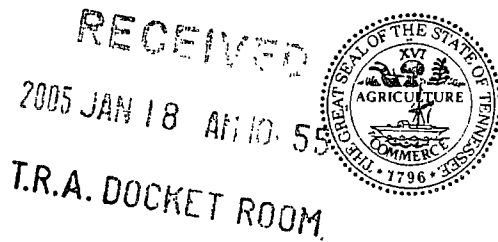


TENNESSEE REGULATORY AUTHORITY

Pat Miller, Chairman
Deborah Taylor Tate, Director
Sara Kyle, Director
Ron Jones, Director



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

January 11, 2005

UPS Overnight Delivery

Mr. Robert Ingram
Natural Gas Superintendent
Athens Utility Board
P.O. Box 689
Athens, TN 37303

05-00017

Re: Formal Notice of Violations
Athens Utility Board Incident – July 16, 2004
Report of Natural Gas Safety Inspection #04-365

Dear Mr. Ingram:

On July 16, 2004, Athens Utility Board in Riceville, Tennessee experienced a rupture of natural gas pipeline resulting in the hospitalization of one individual. Under the Minimum Federal Safety Standards (MFSS), overnight hospitalization of an individual as the result of a natural gas accident is considered an "incident" and reportable to the Federal Office of Pipeline Safety and the state agency enforcing the MFSS. This incident was investigated by the Tennessee Regulatory Authority (TRA) in accordance with Tennessee Code Annotated (TCA) Section 65-28-106 and Section 60105 (c) (B) of the Natural Gas Safety Act to determine the cause and circumstance of the incident.

As a result of our on-site inspection and extensive investigation, the Gas Pipeline Safety Division has determined that Athens Utility Board (AUB) has committed a violation as specified in the attached July 16, 2004 Athens Utility Board Pipeline Accident Report. Pursuant to TCA Section 65-28-108 (a), CGC is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) per day for each violation during the duration of the violation. Considering the cause and circumstances of the incident as determined by our investigation, Athens Utility Board is hereby assessed a civil penalty of **\$15,000**. The Civil Penalty Schedule included in the report sets forth the basis for determining the amount of the civil penalty for each violation.

Page 2
Mr. Bob Ingram
January 10, 2005

In accordance with TRA Rule 1220-4-5-.47 (5) & (6), a written response from AUB is to be submitted to the Pipeline Safety Chief within thirty (30) days of receipt of this Formal Notice of Violation. Your response options to this requirement are:

- 1 Submit a written statement to the Pipeline Safety Chief indicating that corrective measures have achieved compliance;
2. Submit a written plan of action to the Pipeline Safety Chief outlining the corrective measures that will be taken to achieve compliance and when compliance is anticipated, or
- 3 Request an informal conference with the Pipeline Safety Chief to discuss the violation(s).

If you have any questions regarding this matter or wish to schedule an informal conference, please call me at 800.342.8359 extension 185. Thank you for your cooperation and attention in matters relating to gas pipeline safety.

Sincerely,

A handwritten signature in black ink, appearing to read 'Glynn Blanton', with a stylized flourish at the end.

Glynn Blanton, Chief
Gas Pipeline Safety Division

GB/vnm

Attachment-July 16, 2004 Athens Utility Board Pipeline Accident Report

REPORT OF NATURAL GAS SAFETY INSPECTION #04-365

OPERATOR: Athens Utility Board -- Athens, Tennessee

PERSON (S) CONTACTED: Bob Ingram, Gas Superintendent

INSPECTION DATE: 7/16/04

TRA ENGINEER: Eric Cherry

=====

Any questions pertaining to this report may be directed to the above address or by telephoning (615) 741-2844, extension 133 (Call toll-free within Tennessee at 1-800-342-8359, extension 133)

1 **PURPOSE OF INSPECTION:** To perform an incident investigation on the Athens Utility Board gas system for compliance with the Minimum Federal Safety Standards (MFSS) §192

2 **VIOLATION (S) OF THE MINIMUM FEDERAL SAFETY STANDARDS:**

A Violation(s) Cited this Inspection

§192.614(c)(5) Damage prevention program.

Provide temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins

B Violation(s) Previously Cited None.

C Violation(s) Closed this Inspection None.

3. **OBSERVATIONS, COMMENTS, AND RECOMMENDATIONS:** See attached "Pipeline Accident Report"

4 **ACTION REQUIRED BY OPERATOR:** See attached "Pipeline Accident Report"

PIPELINE ACCIDENT REPORT
ATHENS UTILITY BOARD
RICEVILLE, TENNESSEE
JULY 16, 2004

INTRODUCTION

This pipeline incident was investigated by the Tennessee Regulatory Authority under the authority of Section 60105(C)(1)(b) of 49 United States Code (U S C) Chapter 601, State Statute 65-28-106 and Tennessee Regulatory Authority Rule 1220-4-5- 47(5)&(6) by which the Tennessee Regulatory Authority is responsible for, among other things, reporting to the Secretary of Transportation in Annual Certification, all accidents or incidents reported during the preceding twelve months by each such person involving personal injury requiring hospitalization, fatality, or property damage exceeding an amount established by the Secretary, together with a summary of the investigation as to the cause and circumstances surrounding such accidents or incidents

SYNOPSIS

On July 16, 2004 at approximately, 12 00 P M (E S T) an incident occurred near the intersection of County Road 100 and County Road 62 in Riceville, Tennessee The incident resulted in the injury and hospitalization of Nicholas Strickland and damage to a four (4) inch polyethylene natural gas main Nicholas Strickland worked for C P Asbury Construction Company The natural gas main is operated by the Athens Utility Board (AUB)

According to Hank Shadden of C P Asbury Construction Company, a boring machine ruptured the polyethylene gas main which had approximately 20 pounds per square inch gauge (psig) of pressure. The escaping gas was then ignited by the boring machine engine Nicholas Strickland was in the boring machine trench operating the boring machine when the gas migrated back through the boring casing and ignited Nicholas Strickland's arms and torso were burned prior to his escape from the rear portion of the boring machine trench Nicholas Strickland's injuries resulted in seven days of hospitalization at Erlanger Hospital in Chattanooga, Tennessee.

C P Asbury Construction Company was a subcontractor for Green Brothers Construction, the general contractor that had the contract with the Riceville Utility Board to install a boring for a water line under County Road 100 Pursuant to Tennessee Annotated Code §65-31-108, the Athens Utility Board is responsible for locating the natural gas mains in the Riceville area

The incident occurred at a location approximately 65 feet north of the intersection of County Road 100 and County Road 62, on the west side of County Road 100. The

excavation for the boring pit began at the incident site and extended into a cattle pasture on the west side of County Road 100 (see exhibit five) The completed boring was intended to extend from west to east under County Road 100

Hank Shadden was the lead construction person on the road boring project. He stated that "immediately following the incident he called 911, who in turn notified fire and emergency medical services" An AUB employee, Sean Jaquish, was mowing a nearby church lawn at the time of the incident He saw the resulting fire and called AUB

Records indicate that AUB was notified at 12 20 PM E S T (see exhibit one) Records indicate that the County Fire Coordinator with the Hazmat Team, Scott Thompson, was notified of the incident at approximately 12 46 PM (see exhibit two). The responding AUB personnel, David Leamon, Jeff Derrick, and Mark Sliger arrived on-site and began to isolate the damaged section of pipeline at approximately 12 45 PM According to the timeline of events, supplied by Mr Bob Ingram, AUB Gas Superintendent, AUB personnel began isolating the damaged section of pipeline at approximately 12 45 PM with a valve on the southern end of the damaged pipe and by digging a bell hole on the northern section of pipe, such that it may be physically squeezed off (see exhibit one).

At 12 51 PM, Mr Scott Thompson, County Fire Coordinator, arrived at the incident site and began to direct and reroute traffic (see exhibit two) The Riceville Fire Department was notified of the incident at approximately 12 58 PM, per the Riceville Fire Department records (see exhibit four) At approximately 1 18 PM E S T the Tennessee Regulatory Authority was notified by AUB of the incident (see exhibit three). The Riceville Fire Department arrived at the incident site at 1 22 PM AUB finalized a plan of action and began repair work on the damaged pipeline at 1 30 PM Mr Eric Cherry, Gas Safety Engineer with the Tennessee Regulatory Authority, arrived on-site at approximately 2 15 PM, at which time the fire had been extinguished

Nicholas Strickland was transported via Life Force, Erlanger Hospital's air service helicopter, to Erlanger Hospital in Chattanooga, Tennessee at 12 51 PM (see exhibit two) Mrs Shadden, Nicholas's mother, stated that Nicholas Strickland was treated for second and third degree burns to his arms, hands, torso and head and was kept at the hospital for seven days Mrs Shadden went on to relay that Nicholas Strickland is still considered partially disabled due to the fragility of his burn scars The total estimated property damage of equipment, pipeline and lost natural gas did not exceed \$10,000

INVESTIGATION

Mr Eric Cherry arrived at the incident scene at 2 15 PM E S T on the afternoon of July 16, 2004 to conduct the investigation The investigation consisted of a tour of the site, where photographs were taken, and interviews with representatives of Green Brothers Construction, Riceville Utility Board and Athens Utility Board were conducted Upon arrival, the incident fire had been extinguished, the burn victim had been transported for treatment and repair work on the damaged portion of polyethylene pipeline had begun

The incident occurred when C P Asbury Boring Company bored into the four (4) inch polyethylene natural gas main located on the west side of County Road 100. The incident occurred approximately 65 feet north of the intersection of County Road 100 and County Road 62, on the west side of County Road 100 in Riceville, Tennessee (see exhibit five). Hank Shadden of C P Asbury stated that "the boring machine excavation pit had been excavated on the west side of County Road 100 and the boring machine and tracks had been installed in the excavated pit by 11 30 AM E S T on July 16, 2004. The boring under County Road 100 began with an auger bit, casing and boring machine at 11 50 AM. At approximately 12 00 PM, the auger bit ruptured the four (4) inch polyethylene natural gas main." The pressure on the natural gas main was approximately 20 psig. The escaping natural gas traveled back through the casing and ignited when it came into contact with the boring machine engine.

Nicholas Strickland of C P Asbury Boring Company was in the excavated boring machine pit at the time of the incident. When the gas ignited, Nicholas Strickland was operating the boring machine. Nicholas Strickland sustained burns to his hand, arms, torso and head prior to escaping from the rear portion of the excavated boring machine pit. Nicholas Strickland was the only person injured at the incident scene.

In the State of Tennessee, contractors are required to contact the Tennessee One-Call system at least three working days prior to excavating to allow marking of underground facilities (see exhibit six). Utility operators who are notified by Tennessee One-Call must indicate the approximate location of their facilities. It is the responsibility of the excavator to observe a "safety zone" with respect to the facility markings. Under Tennessee Law, an excavator could be subject to a penalty not to exceed \$2500.00 and/or 48 hours in jail per violation if excavation and damage took place without prior notification. A locate ticket remains active for a maximum of 15 working days. The excavator must update an area by calling Tennessee One-Call no later than 3 working days before the expiration date to renew the locate ticket. At this point, a new locate ticket is generated.

C P Asbury Construction contacted Tennessee One-Call on July 8, 2004 for a facility locate at the intersection of County Road 100 and County Road 62. The locate ticket requested a locate "from above the intersection, mark north/northwest for approximately 200 feet" (see exhibit seven). This initial locate ticket (# 041900438) was called in by Hank Shadden with C P Asbury Construction. Additional underground utility locate tickets were called in by Green Brothers Construction on July 13, 2004 for this same location (see exhibit seven). These additional facility locate tickets (#041951932 and #041951933) were called in by Debbie Green of Green Brothers Construction.

Upon investigation by this writer on the day of the incident, yellow paint markings and flags indicating natural gas facilities were present at the intersection of County Road 100 and County Road 62 (see exhibit eight). These yellow paint markings and flags started on the west side of the intersection. These markings continued to a gas distribution valve approximately 40 feet north/northwest of the intersection. There, the markings indicated the gas distribution facilities cross west to east across County Road 100. No gas pipeline

facility markings, yellow paint or flags, were located any farther than approximately 40 feet north/northwest of the intersection on County Road 100 and County Road 62.

The boring machine ruptured the gas main while boring in the area approximately 65 feet north/northwest of the intersection. Hank Shadden stated "they were unaware of any natural gas facilities any farther north of the intersection than those extending 40 feet north of the intersection"

The damaged section of polyethylene gas main was isolated by the AUB's personnel who located a gas main valve approximately 30 feet south of the incident site and closed the valve to prevent the flow of gas from the south feed. The gas was isolated on the north side of the damaged pipeline section by excavating a bell hole to expose the pipe, where AUB personnel could use a squeeze tool to compress the polyethylene pipe and prevent the flow of gas through the section of pipeline. These measures effectively cut off any gas sources to the damaged section of the pipeline, and the fire was extinguished at approximately 2 15 PM. According to the AUB timeline of events, AUB personnel finalized a plan of action and repair work on the pipeline commenced at approximately 1 30 PM. AUB personnel completed the pipeline repair work at approximately 3 45 PM (see exhibit one). Work on the pipeline extended approximately 85 feet north of the intersection on the west side of County Road 100. In the course of collecting data, this investigator asked Mr. Bob Ingram, AUB Gas Superintendent, if he knew of or was he aware of any gas pipeline facility markings any farther than approximately 40 feet north of the intersection on County Road 100. Mr. Bob Ingram stated "he had not seen any yellow locate markings as far north on County Road 100 as the incident scene, and he had looked "

An incident scene map was prepared (see exhibit five). The natural gas facilities ran continually from south to north of the intersection on the west side of County Road 100. The natural gas facility markings (yellow paint and flags) extended approximately 40 feet north of the intersection, where they crossed County Road 100. The natural gas facility markings also cross County Road 62 to the south side of the intersection along the west side of the intersection. The telecommunication facility markings (orange paint) extended in excess of 200 feet to the north of the intersection down the east side of County Road 100. The natural gas facilities did not have any locate markings corresponding to the facility locations any further than 40 feet north of the intersection.

Pursuant to 49CFR §192.617, under the direction of Bob Ingram, AUB prepared an investigation of the failure and accident report for the purpose of determining the causes of failure and minimizing the possibility of recurrence. In summary, the conclusion of this report stated, "AUB failed to completely mark the area as requested" (see exhibit eleven).

CONCLUSIONS

The AUB four (4) inch natural gas main located on the west side of County Road 100, north of the intersection of County Roads 100 and 62, in Riceville, Tennessee, was ruptured by a boring machine owned by C P Asbury Construction. According to Richard Green of Green Brothers Construction, three locate tickets had been called in to Tennessee One-Call for an underground facility locate for the area 200 feet north of the intersection of County Roads 100 and 62, north/northwest of County Road 100 (see exhibit seven).

AUB is required to locate their underground facilities in conjunction with the Tennessee Underground Utility Damage Prevention Law and AUB's Damage Prevention Program (see exhibits six and nine, respectively). AUB employee, Brad Hester, was responsible for the location of these natural gas facilities, according to AUB documentation (see exhibit ten).

AUB personnel responded to the incident in a timely manner, considering the time of notification and the geographical location of the incident and AUB personnel. AUB personnel isolated the damaged pipeline in a timely manner and extinguished the resulting fire. Repairs to the pipeline proceeded in an orderly fashion with no loss of service to customers. Recommended safety practices were employed with the repair of the pipeline including control of static electricity, monitoring gas content in the excavated pipeline repair pit, and the use of Nomex fire retardant suits by AUB personnel performing the repair work.

49 CFR §192.614 (c)(5) states that each operator must, "Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as possible, the activity begins" as part of the operator's written Damage Prevention Program. Item two of the AUB failure investigation report conclusion (see exhibit eleven), states, "2) AUB's failure to completely mark the area as requested resulted in the contractor believing the area was clear of natural gas piping." This investigator did not find any gas facility locate markings for the pipeline facilities approximately 20 feet south of the incident scene going northward along the west side of County Road 100 (see exhibit five). This investigator concludes that AUB failed to mark their underground facilities as required. Therefore, a violation of **49 CFR §192.614 (c)(5)** has been cited at this time.

Index of Exhibits

Exhibit One	Athens Utility Board Timeline Correspondence.
Exhibit Two	911 Incident Transcript.
Exhibit Three	Incident Report filed with Tennessee Regulatory Authority.
Exhibit Four	Riceville Fire Department Incident Record.
Exhibit Five	Incident Scene Map.
Exhibit Six	Tennessee Underground Utility Damage Prevention Law.
Exhibit Seven	Tennessee One-Call Locate Tickets.
Exhibit Eight	Incident Scene Pictures.
Exhibit Nine	Athens Utility Board Damage Prevention Program
Exhibit Ten	Athens Utility Board Correspondence of Brad Hester as Athens Utility Board Person Responsible for the Incident's Facility Locate.
Exhibit Eleven	Athens Utility Board Failure Report.

EXHIBITS

EXHIBIT 1
(following three pages)

From "Bob Ingram" <bingram@aub.org>
To <Eric.cherry@state.tn.us>
Date 8/2/2004 1:35:03 PM
Subject questions answered

Eric,

Here are my responses to your questions. I hope this is satisfactory.
Please call me after you look this over.

Thanks,

Bob Ingram

Superintendent

Division of Natural Gas

Athens Utilities Board

423-745-4501

423-829-5204

- 1 What was the operating pressure on the 4 inch line which was damaged? 20 psig
- 2 When was the 4 inch line installed? January 2001
- 3 Please supply odorization reports for this area
 - A January 2004 .50 - .72
 - B February 2004 .31 - .28
 - C March 2004 .41 - 30
 - D April 2004 .29 - 41
 - E May 2004 .39 - .35
 - F June 2004 .26 - .23
 - G July 2004 74 - 61
 - H Copies of actual test report sheets shipped under separate cover
- 4 Is this a single or a loop feed on the 4 inch line which was damaged? This portion of the line is normally considered a single feed as it is supplied from a 20 psig system servicing the city of Riceville. The line is tied into a looping area which is a 50 psig system servicing the outer north western portions of the county. There is a blocking valve (normally closed) between the two systems. The 4 inch line was tested to 100 psig during installation which gives us a MAOP of 66 psig on the line. When the valve was closed feeding the line from Riceville we cracked the blocking valve to maintain customers on the still active portion of the line.
- 5 Why was the 4 inch line squeezed off on the northern end of County Road 100? The location of the next northern valve would have caused a longer bleed time thusly slowing down repair and purging efforts. Utilizing the squeeze off method we were able to insure no customers would be lost.
- 6 Were there any police or fire reports for the incident? Please supply a copy. No police report made – attempting to locate a fire report.
- 7 Please provide a timeline of events including who was contacted when?

All times approximate.

 - A. 12:15 – line damaged
 - B. 12:15 – damaging contractor calls 911 requiring assistance
 - C. 12:20 – AUB dispatch notified
 - D. 12:30 – Bob Ingram notified
 - E. 12:30 – Fire, Sheriff and EMT arrive
 - F. 12:40 – Injured party flown to burn unit of Erlanger Hospital in Chattanooga
 - G. 12:45 – AUB qualified personnel arrive and close feeding valves southern and northern

- H. 12:50 – Bob Ingram arrives
 - I. 12: 55 – Situation assessed, contact made with all responding parties
 - J. 13 15 – TRA notified
 - K. 13.20 – National Emergency Response center notified
 - L. 13.30 – Plan of action finalized and repair work commences
 - M. 14:15 – TRA representative arrives
 - N. 15.45 – Repair work completed
 - O. 16 00 – Earth work completed
 - P. 16:15 – Line purged and placed back into service
- 8 From the notification of the incident, when was the gas turned off? Valves southern and northern of the damage were closed on the arrival of AUB qualified personnel
- 9 Who did the line locating for this call ticket? Athens Utilities Board

EXHIBIT 2
(following nine pages)

MCMINN COUNTY E-911 COMMUNICATIONS CENTER

Fax Transmittal Form

1107 S CONGRESS
PKWY
ATHENS, TN 37303**To: ERIC CHERRY****From: Susan Jackson**Name
Organization Name/Dept
CC
Phone number
Fax number

MCECD

Phone 423-744-8041
Fax 423-744-8043Phone 423-744-8041
Fax 423-744-8043

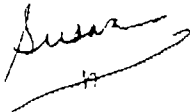
Urgent

Date sent 8-4-04
Time sent 0809
Number of pages including cover page 9

For Review ✓

Please Comment

Please Reply

ERIC,**I HOPE THIS WILL BE HELPFUL. IF YOU NEED ANY-
THING FURTHER PLEASE DO NOT HESITATE TO CALL.****THANKS,**

MEDICAL ASSIST CALL JULY 16,2004

12:03 00 911 CALL RECEIVED BY DISPATCH ADVISING THAT THEY HAD
A BOY BURNED BY A BORING MACHINE
12:04.00 EMS UNITS AND FIRE DEPARTMENT CONTACTED TO BE
ENROUTE
12:09:00 EMS UNITS ENROUTE TO SCENE
12:16:00 RICEVILLE FIRE DEPARTMENT ENROUTE
12 16.00 ATHENS UTILITY BOARD CALLS DISPATCH AND ADVISED
THEY HAD A UNIT ON SCENE AND NEEDED THE SHERIFF'S
DEPARTMENT TO BE ENROUTE (THEY DID NOT ADVISE THAT
IT WAS A NATURAL GAS LINE AT THIS TIME)
12:17:00 SHERIFF'S DEPARTMENT ADVISED OF TRAFFIC
12:22:00 FIRST AMBULANCE ON SCENE
12.23.00 RICEVILLE FIRE DEPARTMENT ON SCENE
12 24.12 RICEVILLE FIRE UNIT 603 ADVISES DISPATCH THAT THEY
HAVE A 4" NATURAL GAS LINE ON FIRE AND TO PAGE
HAZMAT
12.26 00 SECOND AMBULANCE ON SCENE AND ADVISES DISPATCH
THEY NEED HELICOPTER TO BE ENROUTE
12.31 58 SHERIFF'S DEPARTMENT ARRIVES ON SCENE
12:36 28 AIR EVAC HELICOPTER IS ENROUTE

ALL OTHER TIMES ON THE REPORT ARE CORRECT
ACCORDING TO THE RECORDER

UNITS RESPONDING	MED3, MED1—MCMINN CO AMBULANCE (EMS,MCAS) 422—MCMINN COUNTY SHERIFF'S DEPT. (MCSO) ENG6. BRU6—RICEVILLE RURAL FIRE (RRFD) BRU8—HILLSVIEW RURAL FIRE (HRFD) AIR EVAC HELICOPTER (AIREV) HM1. DC1—HAZMAT AND DISTRICT CHIEF (ERFD,ERS)
------------------	---

CAD CALL # 1094		CALL TYPE CALL		CASE # 2004-07-1074			
Call Received By	Received Date & Time	Dispatched	Enroute	On scene	Left	Arrived	Completed
halstj	07/16/2004 12 03 00	12 09 36	12 09 09		0 12 56 44	12 22 45	13 58 08
Comp Type MED		MEDICAL ASSIST				Disposition ASSIST	
Nature:							
Plate	Make	Model		After Hrs			
Street	COUNTY ROAD 71	Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE					
Resp. Addr.	COUNTY RD 100	RICEVILLE					
Caller: HANK	SHADDEN	423-506-6893		After Hrs			
Landmark:		Cross Roads					
Comments: BURN VICTIM							
Priority Dept	Category	ESN	Primary Unit	MED3	EMS	MED1	422
1	MCA	EMS	MED3	MCAS	MCSO	RRFD	HRFD
				AIREV	ERFD	ERS	

422 13 31 58 08 CLEARED 0.0 moserc

Notes Entered By moserc 07/16/2004 01 31 58 PM Notes Last Update By moserc 07/16/2004 01 31 58 PM
422 13 31 58 98 LEFT SCENE 0 0 moserc

Notes Entered By moserc 07/16/2004 01 31 58 PM Notes Last Update By moserc 07/16/2004 01 31 58 PM
422 12 31 39 97 ARRIVED IN AREA 0 0 halstj

Notes Entered By halstj 07/16/2004 12 31 39 PM Notes Last Update By halstj 07/16/2004 12 31 39 PM
422 12 16 09 18 ENROUTE 0 0 moserc

Notes Entered By moserc 07/16/2004 12 16 09 PM Notes Last Update By moserc 07/16/2004 12 16 09 PM
422 12 16 05 DIS DISPATCHED 0 0 moserc

Notes Entered By moserc 07/16/2004 12 16 05 PM Notes Last Update By moserc 07/16/2004 12 16 05 PM
AIREV 13 18 46 08 CLEARED 0 0 moserc

Notes Entered By moserc 07/16/2004 01 18 46 PM Notes Last Update By moserc 07/16/2004 01 18 46 PM
AIREV 13 18 45 98 LEFT SCENE 0 0 moserc

Notes Entered By moserc 07/16/2004 01 18 45 PM Notes Last Update By moserc 07/16/2004 01 18 45 PM
AIREV 12 57 18 TRANSPORTING TO ERLANGER 0 0 moserc

Notes Entered By moserc 07/16/2004 12 57 18 PM Notes Last Update By moserc 07/16/2004 12 57 18 PM
AIREV 12 51 20 97 ARRIVED IN AREA 0 0 moserc

Notes Entered By moserc 07/16/2004 12 51 20 PM Notes Last Update By moserc 07/16/2004 12 51 20 PM
AIREV 12 36 28 18 ENROUTE 0 0 moserc

Notes Entered By moserc 07/16/2004 12 36 28 PM Notes Last Update By moserc 07/16/2004 12 36 28 PM

CAD CALL # 1094

CALL TYPE CALL

CASE # 2004-07-1074

Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed
halstj	07/16/2004 12 03 00	12 09 36	12 09 09	0	12.56 44	12 22 45	13 53.08
Comp Type	MED	MEDICAL ASSIST				Disposition	ASSIST
Nature:							
Plate	Make	Model		After Hrs			
Street	COUNTY ROAD 71	Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr:	207	COUNTY ROAD 71		RICEVILLE			
Resp. Addr.		COUNTY RD 100		RICEVILLE			
Caller:	HANK	SHADDEN	423-506-6893	After Hrs			
Landmark:	Cross Roads						
Comments:	BURN VICTIM						
Priority	Dept	Category	ESN	Primary Unit	MED3 ,EMS	MED1 ,422 ,ENG6 ,BRU8 ,AIREV	
1	MCA	EMS		MED3	MCAS MCSO RRFD HRFD	AIREV ERFD ERS	

AIREV 12 36 26 DIS DISPATCHED 00 moserc

Notes Entered By moserc 07/16/2004 12 36 26 PM Notes Last Update By moserc 07/16/2004 12 36 26 PM

BRU6 12 51 16 97 ARRIVED IN AREA 00 moserc

Notes Entered By moserc 07/16/2004 12:51 16 PM Notes Last Update By moserc 07/16/2004 12 51 16 PM

BRU6 12 42 01 18 ENROUTE 00 moserc

Notes Entered By moserc 07/16/2004 12 42 01 PM Notes Last Update By moserc 07/16/2004 12 42 01 PM

BRU6 12 41 57 DIS DISPATCHED 00 moserc

Notes Entered By moserc 07/16/2004 12 41 57 PM Notes Last Update By moserc 07/16/2004 12 41 57 PM

BRU8 12 41 37 08 CLEARED 00 moserc

Notes Entered By moserc 07/16/2004 12 41 37 PM Notes Last Update By moserc 07/16/2004 12 41 37 PM

BRU8 12 34 10 18 ENROUTE 00 moserc

Notes Entered By moserc 07/16/2004 12 34 10 PM Notes Last Update By moserc 07/16/2004 12 34 10 PM

BRU8 12 34 07 DIS DISPATCHED 00 moserc

Notes Entered By moserc 07/16/2004 12 34 07 PM Notes Last Update By moserc 07/16/2004 12 34 07 PM

CH1 13 19 25 DIS DISPATCHED 00 ADMIN

RURAL COUNTY FIRE COORDINATOR

Notes Entered By ADMIN 07/16/2004 01:19:25 PM Notes Last Update By ADMIN 07/16/2004 01:19 25 PM

CH1 13 11 11 DIS DISPATCHED 00 STATION3

RURAL COUNTY FIRE COORDINATOR

Notes Entered By STATION3 07/16/2004 01 11 11 PM Notes Last Update By STATION3 07/16/2004 01 11 11 PM

CAD CALL # 1094		CALL TYPE CALL		CASE # 2004-07-1074				
Call Received By	Received Date & Time	Dispatched	Enroute	On scene	Left	Arrived	Completed	
halsq	07/16/2004 12 03 00	12 09 36	12 09 09	0	12 56 44	12 22 45	13 58 08	
Comp TypeMED		MEDICAL ASSIST				Disposition ASSIST		
Nature:								
Plate	Make	Model		After Hrs				
Street	COUNTY ROAD 71	Color						
Driver Lic.		Driver State						
Suspect		Suspect						
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE						
Resp. Addr.	COUNTY RD 100	RICEVILLE						
Caller: HANK	SHADDEN	423-506-6893		After Hrs				
Landmark:		Cross Roads						
Comments: BURN VICTIM								
Priority Dept	Category	ESN	Primary Unit	MED3	EMS	MED1	422	
1	MCA	EMS	MED3	MCAS	MCSO	RRFD	HRFD	
						AIREV	ERFD	
						ERS		
CH1	13.08 47 DIS	DISPATCHED				00	moserc	
Notes Entered By moserc 07/16/2004 01 08 47 PM			Notes Last Update By moserc 07/16/2004 01 08 47 PM					
CH1	13 08 41 DIS	DISPATCHED				00	moserc	
Notes Entered By moserc 07/16/2004 01 08 41 PM			Notes Last Update By moserc 07/16/2004 01 08 41 PM					
DC1	12 51 14 97	ARRIVED IN AREA				00	moserc	
Notes Entered By moserc 07/16/2004 12:51 14 PM			Notes Last Update By moserc 07/16/2004 12 51 14 PM					
DC1	12 41 00 18	ENROUTE				00	moserc	
Notes Entered By moserc 07/16/2004 12 41 00 PM			Notes Last Update By moserc 07/16/2004 12 41 00 PM					
DC1	12 40 58 DIS	DISPATCHED				00	moserc	
Notes Entered By moserc 07/16/2004 12 40 58 PM			Notes Last Update By moserc 07/16/2004 12 40 58 PM					
EMS	12 09 51 08	CLEARED				00	moserc	
Notes Entered By moserc 07/16/2004 12 09 51 PM			Notes Last Update By moserc 07/16/2004 12 09 51 PM					
EMS	12.09 48 DIS	DISPATCHED				0.0	moserc	
Notes Entered By moserc 07/16/2004 12 09 48 PM			Notes Last Update By moserc 07/16/2004 12 09 48 PM					
EMS	12 09 41 DIS	DISPATCHED				00	moserc	
Notes Entered By moserc 07/16/2004 12 09 42 PM			Notes Last Update By moserc 07/16/2004 12 09 42 PM					
EMS	12 09 36 DIS	DISPATCHED				0.0	moserc	
Notes Entered By moserc 07/16/2004 12:09:38 PM			Notes Last Update By moserc 07/16/2004 12 09 38 PM					

CAD CALL # 1094		CALL TYPE CALL		CASE # 2004-07-1074				
Call Received By	Received Date & Time	Dispatched	Enroute	On scene	Left	Arrived	Completed	
halstj	07/16/2004 12 03 00	12-09 36	12 09 09		0 12 56 44	12 22 45	13 58 08	
Comp Type	MED	MEDICAL ASSIST					Disposition ASSIST	
Nature:								
Plate	Make	Model	Color	Driver State	Suspect	After Hrs		
Street	COUNTY ROAD 71							
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE						
Resp. Addr.	COUNTY RD 100	RICEVILLE						
Caller: HANK	SHADDEN	423-506-6893				After Hrs		
Landmark:						Cross Roads		
Comments: BURN VICTIM								
Priority	Dept	Category	ESN	Primary Unit	MED3 EMS MED1 422 ENG6 BRU8 AIREV			
1	MCA	EMS		MED3	MCAS MCSO RRFD HRFD AIREV ERFD ERS			
ENG6	13 55 55 08	CLEARED				0.0	moserc	
Notes Entered By	moserc	07/16/2004 01 55 55 PM		Notes Last Update By	moserc	07/16/2004 01 55 55 PM		
ENG6	13 55 53 98	LEFT SCENE				0.0	moserc	
Notes Entered By	moserc	07/16/2004 01 55 53 PM		Notes Last Update By	moserc	07/16/2004 01 55 53 PM		
ENG6	12 22 45 97	ARRIVED IN AREA				0.0	moserc	
Notes Entered By	moserc	07/16/2004 12 22 45 PM		Notes Last Update By	moserc	07/16/2004 12 22 45 PM		
ENG6	12 16 42 18	ENROUTE				0.0	moserc	
Notes Entered By	moserc	07/16/2004 12 16 42 PM		Notes Last Update By	moserc	07/16/2004 12 16 42 PM		
ENG6	12 16 39 DIS	DISPATCHED				0.0	moserc	
Notes Entered By	moserc	07/16/2004 12 16 39 PM		Notes Last Update By	moserc	07/16/2004 12 16 39 PM		
HM1	12 51 18 97	ARRIVED IN AREA				0.0	moserc	
Notes Entered By	moserc	07/16/2004 12 51 18 PM		Notes Last Update By	moserc	07/16/2004 12 51 18 PM		
HM1	12 46 01 18	ENROUTE				0.0	moserc	
Notes Entered By	moserc	07/16/2004 12 46 01 PM		Notes Last Update By	moserc	07/16/2004 12 46 01 PM		
HM1	12 45 58 DIS	DISPATCHED				0.0	moserc	
Notes Entered By	moserc	07/16/2004 12 45 58 PM		Notes Last Update By	moserc	07/16/2004 12 45 58 PM		
MED1	12 56 46 08	CLEARED				0.0	moserc	
Notes Entered By	moserc	07/16/2004 12 56 46 PM		Notes Last Update By	moserc	07/16/2004 12 56 46 PM		
MED1	12 56 44 98	LEFT SCENE				0.0	moserc	
Notes Entered By	moserc	07/16/2004 12 56 44 PM		Notes Last Update By	moserc	07/16/2004 12 56 44 PM		

CAD CALL # 1094

CALL TYPE CALL

CASE # 2004-07-1074

Call Received By	Received Date & Time	Dispatched	Enroute	On scene	Left	Arrived	Completed
halstj	07/16/2004 12 03 00	12 09 36	12 09 09		0 12 56 44	12 22 45	13 58 08
Comp Type	MED	MEDICAL ASSIST				Disposition ASSIST	
Nature:							
Plate	Make	Model		After Hrs			
Street	COUNTY ROAD 71	Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE					
Resp. Addr	COUNTY RD 100	RICEVILLE					
Caller: HANK	SHADDEN	423-506-6893		After Hrs			
Landmark:	Cross Roads						
Comments:	BURN VICTIM						
Priority Dept	Category	ESN	Primary Unit	MED3	EMS	MED1	422
1	MCA	EMS	MED3	MCAS	MCSO	RRFD	HRFD
				AIREV	ERFD	ERS	

MED1 12.46:56 AT HOSPITAL AT LZ 00 moserc

Notes Entered By moserc 07/16/2004 12 46:56 PM Notes Last Update By moserc 07/16/2004 12 46:56 PM

MED1 12 46 38 TRANSPORTING 15-33-LZ 00 moserc

Notes Entered By moserc 07/16/2004 12.46 38 PM Notes Last Update By moserc 07/16/2004 12 46 38 PM

MED1 12.26 26 97 ARRIVED IN AREA 00 moserc

Notes Entered By moserc 07/16/2004 12.26 26 PM Notes Last Update By moserc 07/16/2004 12 26 26 PM

MED1 12 12 15 18 ENROUTE 00 halstj

Notes Entered By halstj 07/16/2004 12.12 15 PM Notes Last Update By halstj 07/16/2004 12 12 15 PM

MED1 12 10 45 DIS DISPATCHED 0.0 moserc

Notes Entered By moserc 07/16/2004 12 10 45 PM Notes Last Update By moserc 07/16/2004 12.10 45 PM

MED3 13 01 29 08 CLEARED 00 halstj

Notes Entered By halstj 07/16/2004 01.01 29 PM Notes Last Update By halstj 07/16/2004 01 01 29 PM

MED3 13 01 28 98 LEFT SCENE 00 halstj

Notes Entered By halstj 07/16/2004 01 01 28 PM Notes Last Update By halstj 07/16/2004 01 01 28 PM

MED3 12 22 53 97 ARRIVED IN AREA 00 moserc

Notes Entered By moserc 07/16/2004 12.22.53 PM Notes Last Update By moserc 07/16/2004 12 22 53 PM

MED3 12 09 09 13 ENROUTE 0.0 moserc

Notes Entered By moserc 07/16/2004 12.09-11 PM Notes Last Update By moserc 07/16/2004-12.09.11 PM

MED3 12.09:06 DIS DISPATCHED 0.0 moserc

Notes Entered By moserc 07/16/2004 12 09 07 PM Notes Last Update By moserc 07/16/2004 12 09 07 PM

CAD CALL # 1094		CALL TYPE CALL		CASE # 2004-07-1074			
Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed
halstj	07/16/2004 12 03 00	12 09 36	12 09 09	0	12 56 44	12 22.45	13 58 08
Comp TypeMED		MEDICAL ASSIST		Disposition		ASSIST	
Nature:							
Plate	Make	Model		After Hrs			
Street	COUNTY ROAD 71	Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE					
Resp. Addr.	COUNTY RD 100	RICEVILLE					
Caller: HANK	SHADDEN	423-506-6893		After Hrs			
Landmark.			Cross Roads				
Comments: BURN VICTIM							
Priority Dept	Category	ESN	Primary Unit	MED3	EMS	MED1	422
1	MCA	EMS	MED3	MCAS	MCSO	RRFD	HRFD
				AIREV	ERFD	ERS	
0				00		halstj	
Notes Entered By		07/16/2004 12:11 30 PM		Notes Last Update By		07/16/2004 12 11 30 PM	
18 YO NICHOLAS STRICKLAND, SEVERE BURNS ON LEFT ARM, MINOR BURNS TO RT HAND							
0				00		halstj	
Notes Entered By		07/16/2004 12 12 06 PM		Notes Last Update By		07/16/2004 12 12 06 PM	
AND ARM CO BORING UNDER ROAD AND MACHINE BLEW UP							
0				00		halstj	
Notes Entered By		07/16/2004 12:13.13 PM		Notes Last Update By		07/16/2004 12 13 13 PM	
CALLER ADVISED THE MACHINE WAS STILL BLAZING, RICEVILLE AND HILLSVIEW PAGED							
0				00		moserc	
Notes Entered By		07/16/2004 12 25 39 PM		Notes Last Update By		07/16/2004 12 25:39 PM	
FIRE 603 WILL BE INCIDENT COMAND							
0				00		moserc	
Notes Entered By		07/16/2004 12 36 44 PM		Notes Last Update By		07/16/2004 12 36 44 PM	
AIR EVAC HAS ETA OF 8-9 MIN							
0				00		moserc	
Notes Entered By		07/16/2004 12.37 57 PM		Notes Last Update By		07/16/2004 12 37 57 PM	
LZ IS GOING TO BE BETWEEN 47 AND SO CAR IN MIDDLE OF THE ROAD.							
0				00		moserc	
Notes Entered By		07/16/2004 12 40 45 PM		Notes Last Update By		07/16/2004 12 40 45 PM	
BIRD IS ON THE GROUND PER 603							

CAD CALL # 1094

CALL TYPE CALL

CASE # 2004-07-1074

Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed
halstj	07/16/2004 12 03.00	12.09 36	12 09 09		0 12 56 44	12 22 45	13 58 08
Comp Type	MED	MEDICAL ASSIST				Disposition	ASSIST
Nature:							
Plate	Make	Model		After Hrs			
Street	COUNTY ROAD 71	Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr. 207	COUNTY ROAD 71	RICEVILLE					
Resp. Addr	COUNTY RD 100	RICEVILLE					
Caller. HANK	SHADDEN	423-506-6893		After Hrs			
Landmark:			Cross Roads				
Comments: BURN VICTIM							
Priority Dept	Category	ESN	Primary Unit	MED3 ,EMS ,MED1 ,422 ,ENG6 ,BRU8 ,AIREV			
1 MCA	EMS		MED3	MCAS MCSO RRFD HRFD AIREV ERFD ERS			

0

00 moserc

Notes Entered By moserc 07/16/2004 12 47 23 PM

Notes Last Update By moserc

07/16/2004 12.47 23 PM

MED1 ADVISED 15-33 TO LZ ABOUT 50 YARDS

0

00 moserc

Notes Entered By moserc 07/16/2004 12 47 37 PM

Notes Last Update By moserc

07/16/2004 12 47 37 PM

MED1 AT LZ AT THIS TIME

0

00 moserc

Notes Entered By moserc 07/16/2004 12 51 05 PM

Notes Last Update By moserc

07/16/2004 12 51.05 PM

603 ADVISED BIRD IS IN THE AIR

0

0.0 moserc

Notes Entered By moserc 07/16/2004 01:36 15 PM

Notes Last Update By moserc

07/16/2004 01 36 15 PM

604 IS INCIDENT COMMAND

EXHIBIT 3
(following one page)

TELEPHONIC ACCIDENT REPORT
Section 191.5 MFSS

Date of Call 7-16-04 Time _____

Person Calling to Report Incident Bob INGRAM

Name of Gas System Athens Utilities 423-829-5204

Incident information

Date 7-16-04 Time _____

Location Co Rd 100 at Co. Rd 62

Personal Injuries ☒ Yes ☐ No Number 1

Did personal injuries require hospitalization? ☐ Yes ☐ No

Fatalities ☐ Yes ☒ No

Details of Personal Injuries and/or Fatalities Third Degree

Burns on front of Body

Property Damage ☒ Yes ☐ No

Does amount of property damage to operators and/or others
property exceed \$50,000? ☒ Yes ☐ No

Details of Property Damage Trencher burned. Actual
Damage amount is unknown

Probable Cause Gas line was not marked. Line
nearby intersection was marked

Did the incident require the taking of any segment of transmission pipe-
line out of service? ☐ Yes ☒ No

Did the incident result in gas igniting? ☒ Yes ☐ No

Other information _____

Has Washington been called? ☐ Yes ☐ No

Washington telephone number - (800) 424-8802

Signature of person completing this form:

Bob Ingram

EXHIBIT 4
(following two pages)

Riceville Rural Fire Department

Trip Sheet

Date. 7-16-04.

Purpose of trip: 10-72 GAS LINE

Time Notified: 12:58 Time Out: 13:05

Time on Scene: 13:22 Time in: 14:30

BRUSH 6 MLG : TANKER 6 MLG.

ENGINE 6 MLG.

Veh. Problems:

Responding Members

DC6		F612	
F602		F613	
F603	X	F614	
F604	X	F615	X
F605 · X		F616	
F606		F617	
F607		F618	
F608		F619	
F609		F620	
F610		F621	
F611		F622	

Total Time: 2.50HRS

Total Man Hrs.: 10HRS

Riceville Rural Fire Department

Date: 7-¹⁶~~09~~-04

Incident Information

Incident Type Fire **XX** Wreck: Other: ☐

Address **COUNTY RD. 100@ COUNTY RD 62**

Insurance

Fire Information

Owner: Phone

Structure Vehicle

Grass or Brush

Extinguishment: **SHUT OFF GAS.**

Witnesses

Wreck Information

Vehicle #1

Vehicle #2

Year 1

Year 2

Make

Make 2

Model

Model 2

Owner #1

Owner #2

Phone #1

Phone #2

Tag #1

Tag #2

Vin #1

Vin #2

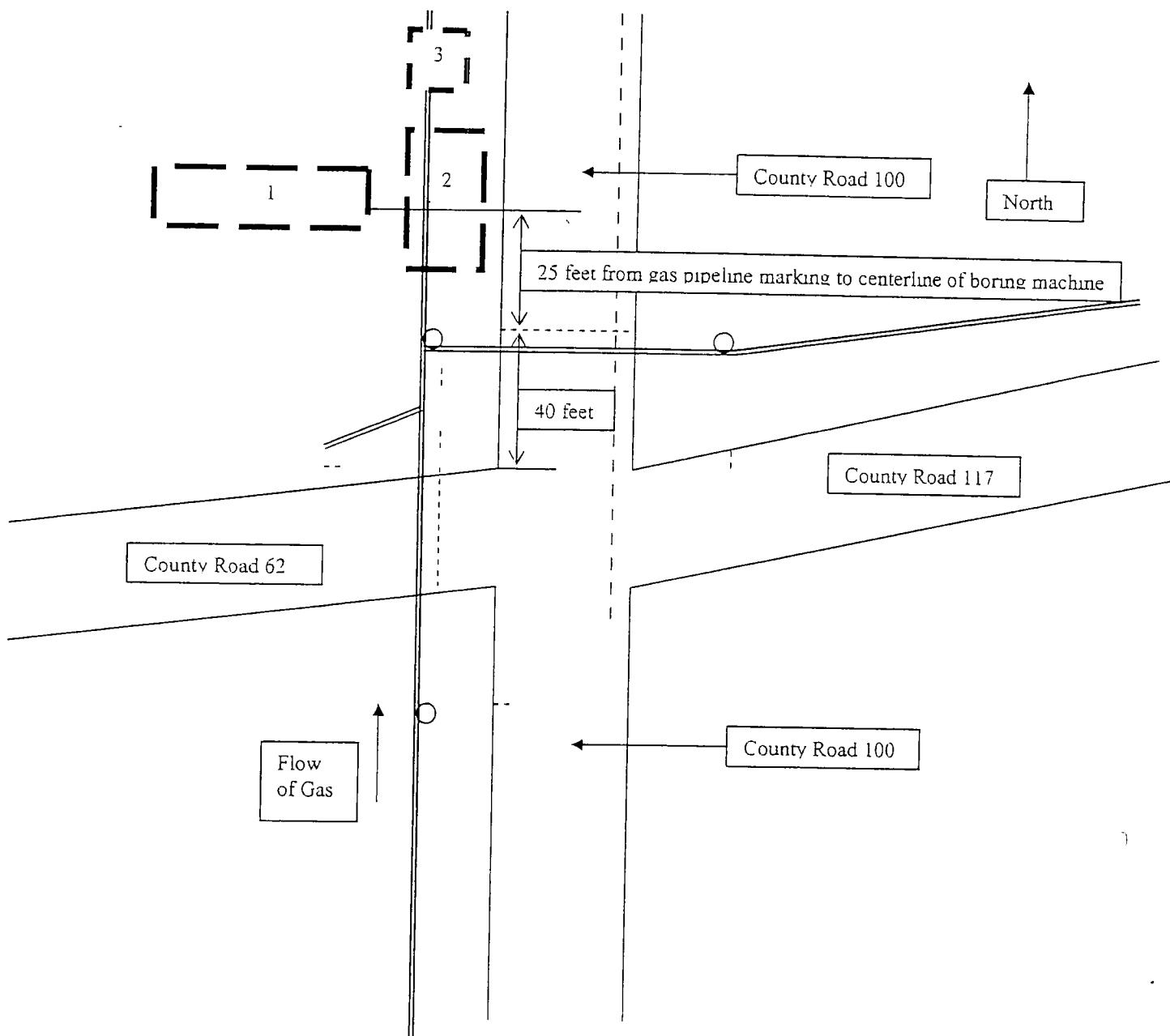
Officer Information

Observation on Arrival **FIRE COMING FROM DITCH. WORKER INJURED**





Narrative **CONSTRUCTION COMPANY DRILLED THRU PIPE**


Officer: **LT.C.SCOGGINS**

EXHIBIT 5
(following one page)



Legend

Gas Pipeline 
 Gas Pipeline Marking 
 Telecommunications Marking 
 Fence Line 

Gas Valve 

- 1 - Excavated Boring Machine Pit by C P Asbury Construction
- 2 - Excavated Trench to repair damaged pipe section by AUB
- 3 - Excavated Trench to squeeze off north section of pipeline by AUB

EXHIBIT 6
(following 9 pages)

CHAPTER 31 UNDERGROUND UTILITY DAMAGE PREVENTION

Section

- 65-31-101 Short title
- 65-31-102 Definitions
- 65-31-103 Permits do not relieve liability
- 65-31-104 Excavations without ascertainment of underground utilities prohibited
- 65-31-105 Filing requirements for utility operators
- 65-31-106 Notice of intent to excavate or demolish
- 65-31-107 Operator associations for mutual receipt of notifications
- 65-31-108 Response to notice of intent to excavate or demolish
- 65-31-109 Emergency excavation or demolition
- 65-31-110 Precautions to avoid damage
- 65-31-111 Notice of excavation or demolition damage
- 65-31-112 Civil penalties and remedies
- 65-31-113 Severability

65-31-101 Short title

This chapter may be cited as the "Underground Utility Damage Prevention Act "
[Acts 1978, ch 692, § 1, T C A , § 65-3201]

Textbooks Tennessee Forms (Robinson, Ramsey and Harwell), Nos 8-305, 8-308, 8-1001, 8-1002

Comparative Legislation Underground utility damage prevention

Ky Rev Stat. Ann § 224 60-105

Mo Rev Stat. § 319 010 et seq

Va Code § 56-260

NOTES TO DECISIONS

1 Purpose

This chapter is intended for situations in which a contractor or excavator proposes to excavate in an area, with no prior knowledge of the location of underground utilities that would be affected by the proposed excavation South Cent Bell Tel Co v Jones Bros Contractors, Inc , 805 S W 2d 749 (Tenn 1991)

65-31-102 Definitions

As used in this chapter, unless the context otherwise requires

- (1) "Damage" includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of any protective coating, housing or other protective device of an underground utility, the partial or complete severance of an underground utility and rendering any underground utility inaccessible,
- (2) "Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives,
- (3) "Excavate" or "excavation" means an operation for the purpose of the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives, and including augering, backfilling, digging, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping,

trenching and tunneling, but not including the tilling of soil for agricultural purposes, or the digging of holes for fence posts on private property "Agricultural purposes" includes surface activities, such as plowing, planting and combining, but does not include blasting, setting drainage tiles, subsoiling or other sub-surface activities,

(4) "Location" means the proposed area for which digging or excavating is scheduled within three (3) to ten (10) working days, such area not to exceed two thousand feet (2,000) in length unless an excavator and an operator or an operator's designated representative, such as a one-call service, agree to a larger area,

(5) "Mechanized equipment" means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plowing-in or pulling-in cable or pipe,

(6) "One-Call Service" means a telephone notification service described in § 65-31-107 that provides services to its members for the purposes of receiving and distributing notification regarding planned excavations or demolitions that are required under this chapter,

(7) "Operator" means any person who owns or operates a utility;

(8) "Person" means any individual, any corporation, partnership, association, or any other entity organized under the laws of any state, any state, any subdivision or instrumentality of a state, and any employee, agent, or legal representative thereof,

(9) "Proposed area of excavation" means a general surface location which excavators are to furnish to operators of underground utilities or to a one-call service as defined in § 65-31-106 The proposed area of excavation does not constitute a specified depth for the purpose of complying with the provisions of this chapter;

(10) "Utility" means any line, system or facility used for producing, storing, conveying, transmitting, or distributing communications, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, sewerage and other underground facilities,

(11) "Working day" means every day, except Saturday, Sunday, and national and legal state holidays For purposes of measuring any period of time that requires notice under this chapter, a working day shall commence at the time the written notice or telephone call is received and shall expire at the same time on the next working day,

(12) "Calendar day" means a twenty-four (24) hour period beginning with the date and time that a notification to excavate or demolish is to begin, including Monday through Sunday and all holidays, and

(13) "Impending emergency" means circumstances potentially dangerous to life, health, property, the environment or the repair or restoration of service, which would likely develop into an emergency, as defined in § 65-31-109, if excavation is not initiated within seventy-two (72) hours

[Acts 1978, ch 692, § 2, T C A , § 65-3202, Acts 1993, ch 223, §§ 1-3, 1999, ch 73, § 1]

Amendments The 1999 amendment added (12) and (13)

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This section is referred to in § 65-31-106, 65-31-108, 65-31-109

65-31-103 Permits do not relieve liability

A permit issued pursuant to law authorizing excavation or demolition operations shall not be deemed to relieve a person from the responsibility for complying with the provisions of this chapter

[Acts 1978, ch 692, § 3, T C A , § 65-3203.]

65-31-104 Excavations without ascertainment of underground utilities prohibited

Except as provided in § 65-31-109, no person may excavate in a street, highway, public space or a private easement of an operator, or demolish a building, without giving the notice required by § 65-31-106 in the manner prescribed by such section.

[Acts 1978, ch 692, § 4, T C A , § 65-3204, Acts 1993, ch 223, § 4]

Section to Section References This section is referred to in §§ 65-31-106, 65-31-110, 65-31-111

Cited South Cent Bell Tel Co v Jones Bros Contractors, Inc , 805 S W 2d 749 (Tenn 1991)

65-31-105 Filing requirements for utility operators

(a) Each operator having underground facilities in a county, including those facilities that have been abandoned in place by the operator but not yet physically removed, shall file a notice with the register of deeds of such county which states that such operator has underground utilities located in that county, the name of the operator and the name, title, address and telephone number of its representative designated to receive the written or telephonic notice of intent required by § 65-31-106 It is only necessary that such notice shall consist of the fact that the operator possesses underground facilities in the listed counties It is not necessary that the operator list the exact physical location of each and every item of its underground facilities in such counties

(b) Changes in any of the information contained in the list filed under subsection (a) shall be filed by the operator with the register of deeds of the county, or the register of deeds of each county in which these utilities are located, within thirty (30) working days of the change

(c) A filing fee as determined by the register of deeds may accompany the filing These filings shall be filed and an index shall be maintained and kept up to date by the register's office

(d) The register of deeds shall, within one (1) working day, furnish to the party requesting such information, in writing when requested, a list of all operators having filed notices pursuant to subsection (a) and all other information regarding each such operator that has been filed with the register of deeds in accordance with subsection (a) When submitted in writing by the register of deeds, the information shall also include the name of the requesting party, and the date and time the register of deeds received the request from the requesting party

(e) After March 27, 1978, operators shall maintain records and drawings of all changes and additions to its underground facilities

[Acts 1978, ch 692, § 5, T C A , § 65-3205, Acts 1993, ch 223, §§ 5-7]

Section to Section References This section is referred to in § 65-31-106

Textbooks Tennessee Forms (Robinson, Ramsey and Harwell), Nos 8-1001, 8-1002

NOTES TO DECISIONS

1 Purpose

The purpose of the filing requirement under this section is to provide anyone commencing an excavation with information relative to location of such underground facilities in order that such person may serve notice on the operator of the underground facility of their intent to excavate. *South Cent Bell Tel Co v Jones Bros Contractors, Inc*, 805 S W 2d 749 (Tenn 1991)

65-31-106 Notice of intent to excavate or demolish

(a) Except as provided in § 65-31-109, before beginning any excavation or demolition operation described in § 65-31-104, other than an impending emergency as defined in § 65-31-102, each person responsible for such excavation or demolition shall serve written or telephonic notice of intent to excavate or demolish at least three (3) working days prior to the actual date of excavation or demolition, but not more than ten (10) full working days prior to such time, unless a different period has been agreed to in writing by the person responsible for the excavation or demolition and the operator or designated representative. Should a period of time of fifteen (15) calendar days from the actual date specified to start excavation or demolition expire without the excavation or demolition being completed, then the person responsible for such excavation or demolition shall serve an additional written or telephonic notice of intent to excavate or demolish at least three (3) working days prior to the expiration of time on the fifteenth calendar day.

(1) If the proposed area of excavation or demolition is not served by the one-call service as provided in § 65-31-107, then the notice required by subsection (a) shall be served on each operator which has filed a list required by § 65-31-105 indicating that it has underground utilities located in the county where the excavation or demolition is to occur, or

(2) If the proposed area of excavation or demolition is served by the one-call service, as provided for in § 65-31-107, the notice required by subsection (a) shall be served on such one-call service, provided, that where demolition of a building is proposed, each affected operator shall be given reasonable time to remove or protect its utilities before demolition of the building begins.

(b) The written or telephonic notice required by subsection (a) shall contain the name, address and telephone number of the person filing the notice of intent and, if different, the person responsible for the excavation or demolition, the starting date, the anticipated duration of the excavation or demolition, the type of excavation or demolition operation to be conducted, the specific location of the proposed excavation or demolition, and whether or not explosives are anticipated to be used. The location of the proposed area of excavation or demolition should be designated by the person responsible for the excavation or demolition by marking such area with "safety white" color-coded stakes or other marking devices.

(c) If the notification required by this section is made by telephone, an adequate record of such notification shall be maintained by each notified operator or one-call service to document compliance with the requirements of this chapter, and a copy of this record shall be furnished by any operator or one-call service to the person giving notice of intent to excavate or demolish, when so requested by that person.

[Acts 1978, ch 692, § 6, T C A , § 65-3206, Acts 1993, ch 223, §§ 8-12, 1999, ch. 73, § 2]

Amendments The 1999 amendment, in (a), inserted "other than an impending emergency as defined in § 65-31-102," in the first sentence and substituted "fifteen (15)

calendar days" for "ten (10) working days" in the first sentence and "fifteenth calendar day" for "tenth working day" in the second sentence, inserted "If the proposed area of excavation or demolition is not served by the one call service as provided in Section 65-31-107, then" at the beginning of (a)(1), and rewrote (a)(2), which read "If the proposed area of excavation or demolition is served by the one-call service as provided for in § 65-31-107, the notice required by subsection (a) shall be served on such one-call service and on any operator that is not receiving the service of the one-call service and which has filed a list required by § 65-31-105 indicating that the operator has underground utilities in the county of the proposed area of excavation or demolition, provided, that where demolition of a building is proposed, each affected operator shall be given reasonable time to remove or protect its utilities before demolition of the building begins "

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This section is referred to in §§ 65-31-102, 65-31-104, 65-31-105, 65-31-107 - 65-31-110

Textbooks Tennessee Forms (Robinson, Ramsey and Harwell), Nos 8-1003, 8-1004

Cited South Cent Bell Tel Co v Jones Bros Contractors, Inc , 805 S W 2d 749 (Tenn 1991)

65-31-107 Operator associations for mutual receipt of notifications

(a) Operators may form and operate a one-call service providing for mutual receipt of notifications of excavation or demolition operations, pursuant to § 65-31-106, in a defined geographical area. A one-call service that provides such service on behalf of operators having underground utilities in Tennessee shall file with the register of deeds of the county in which those utilities are located, the telephone number and address of the one-call service, a description of the geographical area served by the one-call service, and a list of the names and addresses of all operators receiving such service from the one-call service. Any operator that suffers damage as a result of not participating in a one-call service providing for receipt of the notification of excavation or demolition operations in a defined geographic area, pursuant to § 65-31-106, waives the right to recover damages to the operator's underground utilities from the excavator, provided, that the provisions of this chapter were met by the excavator.

(b) (1) Natural gas distribution systems are required to belong to a one-call service formed in a geographical area in which such gas distribution systems operate.

(2) Only one (1) one-call service shall be formed and operated within a defined geographical area.

(3) [Deleted by 1999 amendment]

[Acts 1978, ch 692, § 7, T C A , § 65-3207, Acts 1993, ch 223, § 13, 1996, ch. 855, §§ 1-3, 1999, ch. 73, § 3]

Amendments. The 1999 amendment added the third sentence in (a); and deleted (b)(3), which excluded from subsection (b) counties having populations of not less than 27,100 nor more than 27,400, or of not less than 41,300 nor more than 41,600, or of 100,300 nor more than 100,600, according to the 1990 federal census or any subsequent federal census.

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This section is referred to in §§ 65-31-102, 65-31-106, 65-31-108, 65-31-109

65-31-108 Response to notice of intent to excavate or demolish.

- (a) Each operator notified in accordance with § 65-31-106 shall stake or otherwise mark, prior to the noticed time of the proposed excavation or demolition, the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition. The operator shall not be required to indicate the depth of any such utility, but only the approximate ground location under which the utility is located. Such staking or other marking shall utilize the following color code:
- (1) SAFETY RED shall be used to mark electric power distribution and transmission facilities,
 - (2) HIGH VISIBILITY SAFETY YELLOW shall be used to mark gas and oil distribution and transmission facilities,
 - (3) SAFETY ALERT ORANGE shall be used to mark telephone, telegraph, cable television, video, and other telecommunications facilities,
 - (4) SAFETY PRECAUTION BLUE shall be used to mark water systems facilities,
 - (5) SAFETY GREEN shall be used to mark sewer systems facilities, and
 - (6) SAFETY PURPLE shall be used to mark reclaimed water.
- (b) An excavator shall exercise reasonable care to avoid damage caused by an excavation or demolition within the safety zone around the marked location of the underground utilities. For the purpose of this section, "safety zone" means a strip of land at least four feet (4') wide, but not wider than the width of the utility plus two feet (2') on either side of the utility.
- (c) If, upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility in the area of the proposed excavation, the excavator shall not begin excavating until an additional notice is made to the one-call. The excavator may then proceed, exercising reasonable care to avoid damage to the utility which may be caused by such excavation or demolition.
- (d) If no facilities exist in the tract or parcel of land, the operators shall make a reasonable effort to so advise the individual who initiated the request, provided the request is received in accordance with § 65-31-106.
- (e) The approximate location of underground utilities does not include a designation of location as to depth below the surface of the ground. Excavators must use reasonable care to ascertain for themselves the exact depth of the underground utilities below the surface of the ground. If, after so ascertaining, the excavator learns that its excavation or demolition is likely to interfere with the operation of the underground utility facilities, it must again notify the affected operator of such underground utility facilities and reasonably cooperate with the operator of the underground utility facilities to conduct its excavation or demolition in such a way that the operations of the underground utility facilities are not disturbed or the affected underground utility facilities are placed out of the way of the proposed excavation or demolition.
- (f) Each operator notified in accordance with § 65-31-109, shall within two (2) hours stake or otherwise mark, utilizing the color code set forth in subsection (a), the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition.
- (g) Each operator notified of an impending emergency, as defined in § 65-31-102, shall stake or otherwise mark, prior to the noticed time of the proposed excavation or

demolition, utilizing the color code set forth in subsection (a), the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition

[Acts 1978, ch 692, § 8, T C A , § 65-3208, Acts 1993, ch 223, § 14, 1999, ch 73, § 4]
Amendments The 1999 amendment added (a)(6), added present (c) and redesignated former (c) and (d) as present (d) and (e) respectively, and added (f) and (g).

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This chapter is referred to in § 65-31-109

This section is referred to in §§ 65-31-104, 65-31-109, 65-31-112

Textbooks Tennessee Forms (Robinson, Ramsey and Harwell), Nos 8-1003, 8-1004
65-31-109 Emergency excavation or demolition

(a) Compliance with the notice requirements of § 65-31-106 is not required of any person responsible for emergency excavation or demolition, for repair or restoration of service or to ameliorate an imminent danger to life, health, or property, provided, that such person gives, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground utilities located in the area (or to a one-call service provided for in § 65-31-107, that serves an operator) where such excavation or demolition is to be performed and requests emergency assistance from each operator so identified in locating and providing immediate protection to the operator's underground utilities "Emergency" means an imminent danger to life, health, or property, whenever there is a substantial likelihood that loss of life, health or property will result before the procedures under §§ 65-31-106 and 65-31-108 can be fully complied with

(b) Any excavator providing a misrepresentation of an emergency excavation as stated in subsection (a), or an "impending emergency," as defined in § 65-31-102, shall be subject to the penalties stated in § 65-31-112

[Acts 1978, ch 692, § 9, T C A , § 65-3209, Acts 1993, ch. 223, § 15, 1999, ch 73, § 5]
Amendments The 1999 amendment designated the existing provisions as (a), and added (b)

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This section is referred to in §§ 65-31-102, 65-31-104, 65-31-106, 65-31-108

65-31-110 Precautions to avoid damage

In addition to the notification requirements of § 65-31-106, each person responsible for any excavation or demolition operation designated in § 65-31-104 shall

- (1) Plan the excavation or demolition to avoid damage to and minimize interference with underground utilities in and near the construction area,
- (2) Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment in accordance with § 65-31-108(b) and (d), taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility, and
- (3) Provide such support and protection for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities

[Acts 1978, ch. 692, § 10, T C A , § 65-3210, Acts 1993, ch 223, §§ 16-18]

65-31-111 Notice of excavation or demolition damage

(a) Except as provided by subsection (b), each person responsible for any excavation or demolition operation described in § 65-31-104 that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the operator of such utility of the location and nature of the damage and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility

(b) Each person responsible for any excavation or demolition operation described in § 65-31-104 that results in damage to an underground utility permitting the escape of any flammable, toxic, or corrosive gas or liquid shall, immediately upon discovery of such damage, notify the operator, police and fire departments, and take any other action as may be reasonably necessary to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire departments

(c) During initial excavation, if an underground utility is found to be unsound due to deterioration, the person responsible for excavation shall immediately notify the utility company involved and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility

[Acts 1978, ch 692, § 11, T C A , § 65-3211, Acts 1993, ch 223, § 19]

65-31-112 Civil penalties and remedies

(a) Any person who violates any provision of this chapter commits a Class A misdemeanor, and is subject to a fine not to exceed two thousand five hundred dollars (\$2,500) or a term of imprisonment not to exceed forty-eight (48) hours, or both

(b) (1) Any excavator who violates the provisions of this chapter may be issued a citation by any local or state law enforcement officer or permitting agency inspector, and the issuer of a citation may require any excavator to cease work on any excavation or not start a proposed excavation until there has been compliance with the provisions of this chapter

(2) If, after receiving proper notification as required in § 65-31-106, an operator fails to locate its facilities as required in § 65-31-108, an underground facility of such operator is damaged by an excavator who has complied with the provisions of this chapter, and such damage is a proximate result of the operator's failure to discharge such duty, then such excavator shall not be liable for such damage

(c) (1) Any person who violates any provision of this chapter may be required to appear before the appropriate court as set forth in § 40-1-107 Any person who fails to appear or otherwise properly respond to a citation issued pursuant to this section shall, in addition to the penalties as set forth in the citation, be charged with a misdemeanor offense and, upon conviction, commits a Class B misdemeanor, punishable as provided in § 40-35-111

(2) Any person cited for a violation of this chapter, unless required to appear before the appropriate court may

(A) Post a bond, which shall be equal in the amount to the applicable penalty, or

(B) Sign and accept a citation promising to appear before the appropriate court

(3) The issuing officer shall indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable penalty

(4) Any person charged with a violation of this chapter, unless required to appear before the appropriate court, may

(A) Pay the penalty, in lieu of appearance, either by mail or in person, within ten (10) days after the date of receiving the citation, or

(B) Forfeit the bond, if a bond is posted, by not appearing at the designated time and location

(5) If the person cited follows either of the procedures of subdivisions (c)(4)(A) or (B), such person shall be deemed to have admitted to committing the infraction and to have waived the right to a hearing on the issue of commission of the infraction. Such admission may be used as evidence in any other proceeding.

(d) Any person who knowingly and willfully removes or otherwise destroys the stakes or other physical markings used to mark the horizontal route of an underground facility commits the offense of vandalism as set forth in § 39-14-408, and shall be subject to the punishment for vandalism as set forth in § 39-14-105.

[Acts 1978, ch 692, § 12, T C A , § 65-3212, Acts 1985, ch 69, § 1, 1999, ch 73, § 6]
Amendments The 1999 amendment rewrote this section, which read "Any person who violates any provision of this chapter shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each violation. Actions to recover the penalty provided for in this section shall be brought by the attorney general and reporter at the request of any person in the chancery or circuit court in the county in which the cause, or some part thereof, arose or in which the defendant has its principal place of business or resides. All penalties recovered in any such actions shall be paid into the general fund of the state. Nothing in this chapter shall be construed to modify or repeal existing laws pertaining to the tort liability of local governments and their employees. The remedy set forth in this section is not exclusive but is in addition to any other available remedies for personal injury or property damage (including underground utility damage) whether arising as a result of a violation of the provisions of this chapter or otherwise."

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Cross-References Penalty for a Class A misdemeanor, § 40-35-111

Penalty for a Class B misdemeanor, § 40-35-111

Section to Section References This section is referred to in 65-31-109

COLLATERAL REFERENCES

Applicability of rule of strict liability to injury from electrical current escaping from powerline 82 A L R 3d 218, 60 A L R 4th 732

Liability of gas company for damage resulting from failure to inspect or supervise work of contractors digging near gas pipes 71 A L R 3d 1174

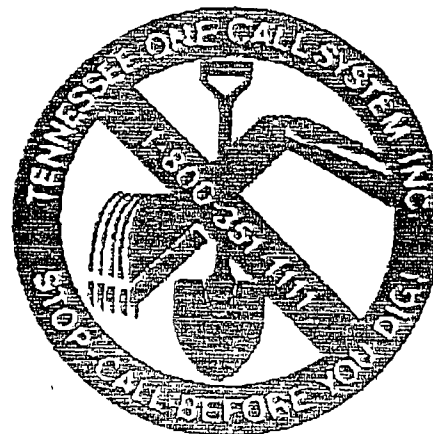
65-31-113 Severability

If any provisions of this chapter or the applicability thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

[Acts 1993, ch 223, § 20]

EXHIBIT 7
(following four pages)

TENNESSEE ONE-CALL
SYSTEM, INC.
www.tnonecall.com



Phone: (615) 367-1110
Fax: (615) 366-5021

Date:

7/19/04

Fax To:

BRAD WILLIAMS

Fax #

741-1228

From:

BILL TURNER

Total number of pages including cover sheet. 3

Comments:

PER YOUR REQUEST,

IF WE CAN DO ANYTHING ELSE

LET ME KNOW

Bill

The information contained in this facsimile transmittal is confidential information intended for the use of the individual or entity to which it is addressed. If the reader of this message is not the intended recipient or if the employer of agent responsible for delivering the message to intended recipient you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this information in error, please notify us immediately by telephone. Thank you.

2525 Perimeter Place Dr * Suite 118* Nashville, TN 37214
Member's Line (800) 351-1111

041951932Ticket Number 041951932Priority NormalHours Notice 72Ticket Type NormalOld TicketOperator KistyTicket Source VoiceTicket Date 7/13/2004 8:56.00PM**Company Information**

GREEN BROS CONSTRUCTION

676 BOWMAN LOOP

CROSSVILLE, TN 38571

Phone: (931) 484-1707Fax:Type: ContractorContact: RICHARD GREENCaller: DEBBIE GREEN

(931) 484-1707

Ext**Work Information**State: TNWork Date: 7/16/2004 at 9:00:00PMCounty: MCMINNWork Type: WATER LINE, INSTLPlace: RICEVILLEDone For: RICEVILLE UTILITY DISTRICTStreet: CORD 62Intersection: CORD 51Explosives: NoAdd'l Locates: FalseWhite Paint: NoExtent: 10,000**Remarks**

FROM THE INTER GO 16,000FT NE & MARK NE APPX 2000FT MARKING BOTH SIDES OF RD. ENDING @ CORD 100. CORD 62 WILL CHG TO CORD 117. RICHARD GREEN IS THE CONTACT IN CASE LOCATORS HAVE ANY QUESTIONS.

Mapping InformationGnds: 63P; 72D; 73ACaller Supplied Grids: Yes**Dispatch Centers**

<u>Code</u>	<u>Name</u>	<u>Added Manually</u>	<u>Suppressed</u>
AUB	Athens Utl Board	False	False
802	BellSouth - Chattanooga	False	False

041951933

Ticket Number 041951933
Priority Normal
Hours Notice 72
Ticket Type Normal

Old Ticket
Operator Kisty
Ticket Source Voice
Ticket Date 7/13/2004 8:58:00PM

Company Information

GREEN BROS CONSTRUCTION
 676 BOWMAN LOOP
 CROSSVILLE, TN 38571

Phone (931) 484-1707
Fax

Type Contractor
Contact RICHARD GREEN
Caller DEBBIE GREEN
 (931) 484-1707 Ext

Work Information

State TN Work Date 7/16/2004 at 9:00:00PM
County MCMINN Work Type WATER LINE, INSTL
Place RICEVILLE Done For RICEVILLE UTILITY DISTRICT
Street CORD 100
Intersection CORD 62
Explosives No Add'l Locates False
White Paint No Extent

Remarks

@ INTER MARK CORD 100 FOR APPX 500 FT N & S ON BOTH SIDES OF RD CORD 62 WILL CHG TO CORD 117. RICHARD GREEN IS THE CONTACT IN CASE LOCATERS HAVE ANY QUESTIONS.

Mapping Information

Grids 72D; 72E; 73A, 73H

Caller Supplied Grids Yes

Dispatch Centers

<u>Code</u>	<u>Name</u>	<u>Added Manually</u>	<u>Suppressed</u>
AUB	Athens Util Board	False	False
B02	BellSouth - Chattanooga	False	False
RICE	Riceville Utility Dist	False	False

041900438

Ticket Number 041900438
Priority Normal
Hours Notice 72
Ticket Type Normal

Old Ticket
Operator Desi
Ticket Source Voice
Ticket Date 7/8/2004 8:37:00AM

Company Information

C P ASBERRY CONSTRUCTION
400 CARSON ROAD
CROSSVILLE, TN 38558

Phone: (931) 484-7305

Fax:

Type: Contractor
Contact: HANK SHADDEN
Caller: HANK SHADDEN
(931) 484-7305

Ext

Work Information

State: TN Work Date: 7/13/2004 at 8:45:00AM
County: MCMINN Work Type: ROAD BORE
Place: RICEVILLE Done For: GREENBROTHERS CONSTRUC
Street: CORD 100
Intersection: CORD 62
Explosives: No Add'l Locates: False
White Paint: No Extent:

Remarks

FROM ABOVE INTER MARK GO N/NW FOR APPX 200FT

Mapping Information

Grids: 72D; 73A

Caller Supplied Grids: No

Dispatch Centers

<u>Code</u>	<u>Name</u>	<u>Added Manually</u>	<u>Suppressed</u>
AUB	Athens Util Board	False	False
B02	BellSouth - Chattanooga	False	False

EXHIBIT 8
(following 4 pages)

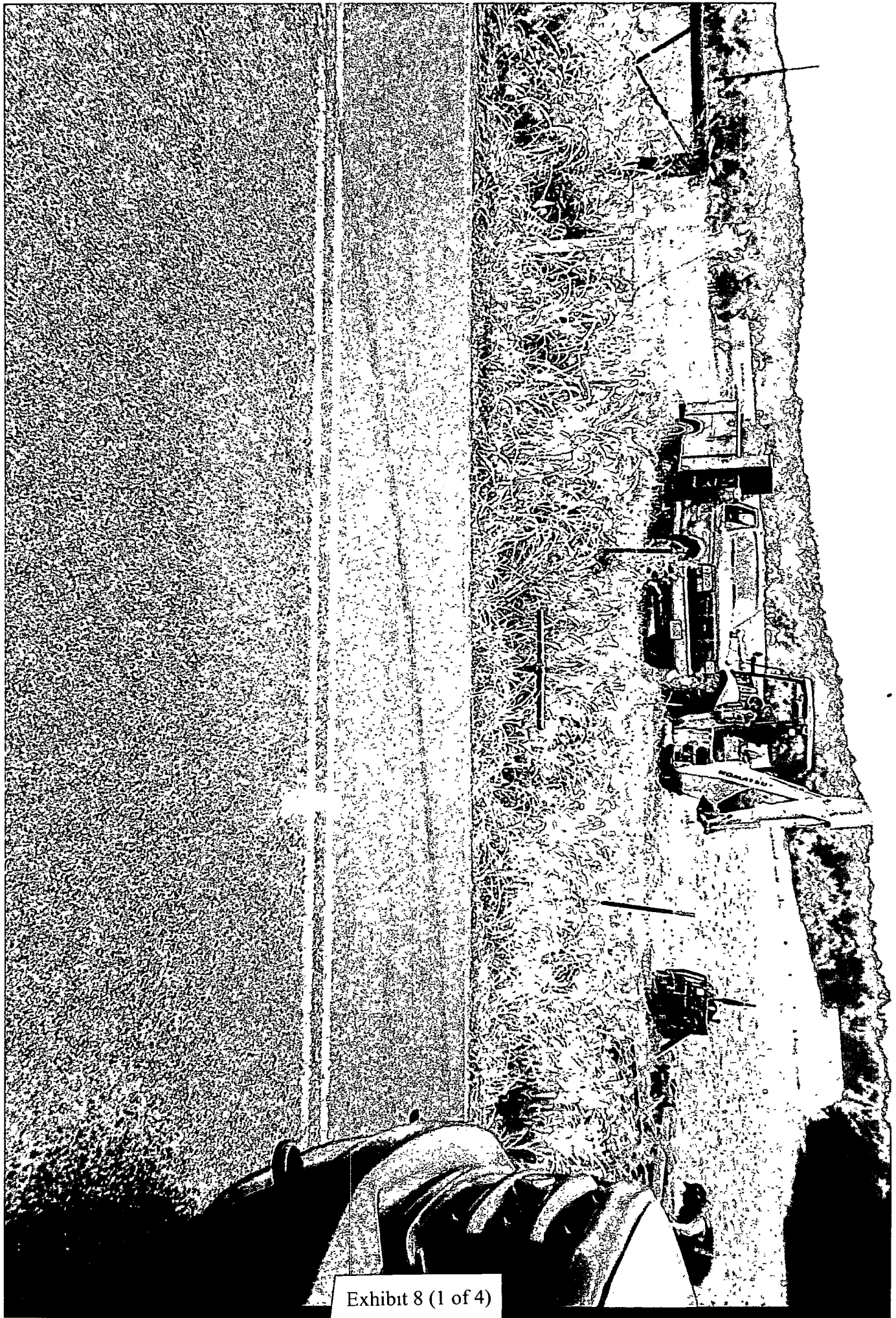
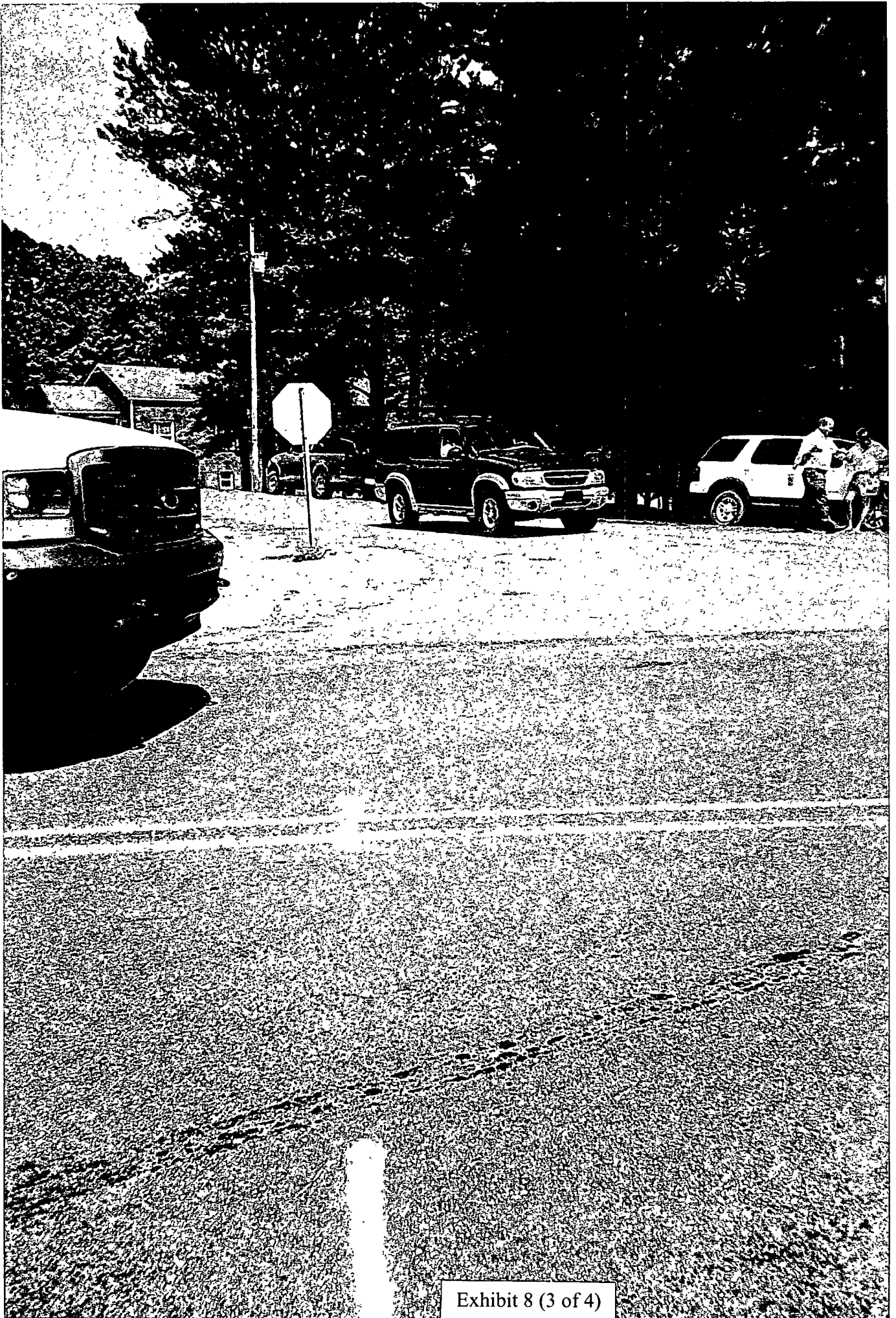


Exhibit 8 (1 of 4)



Exhibit 8 (2 of 4)



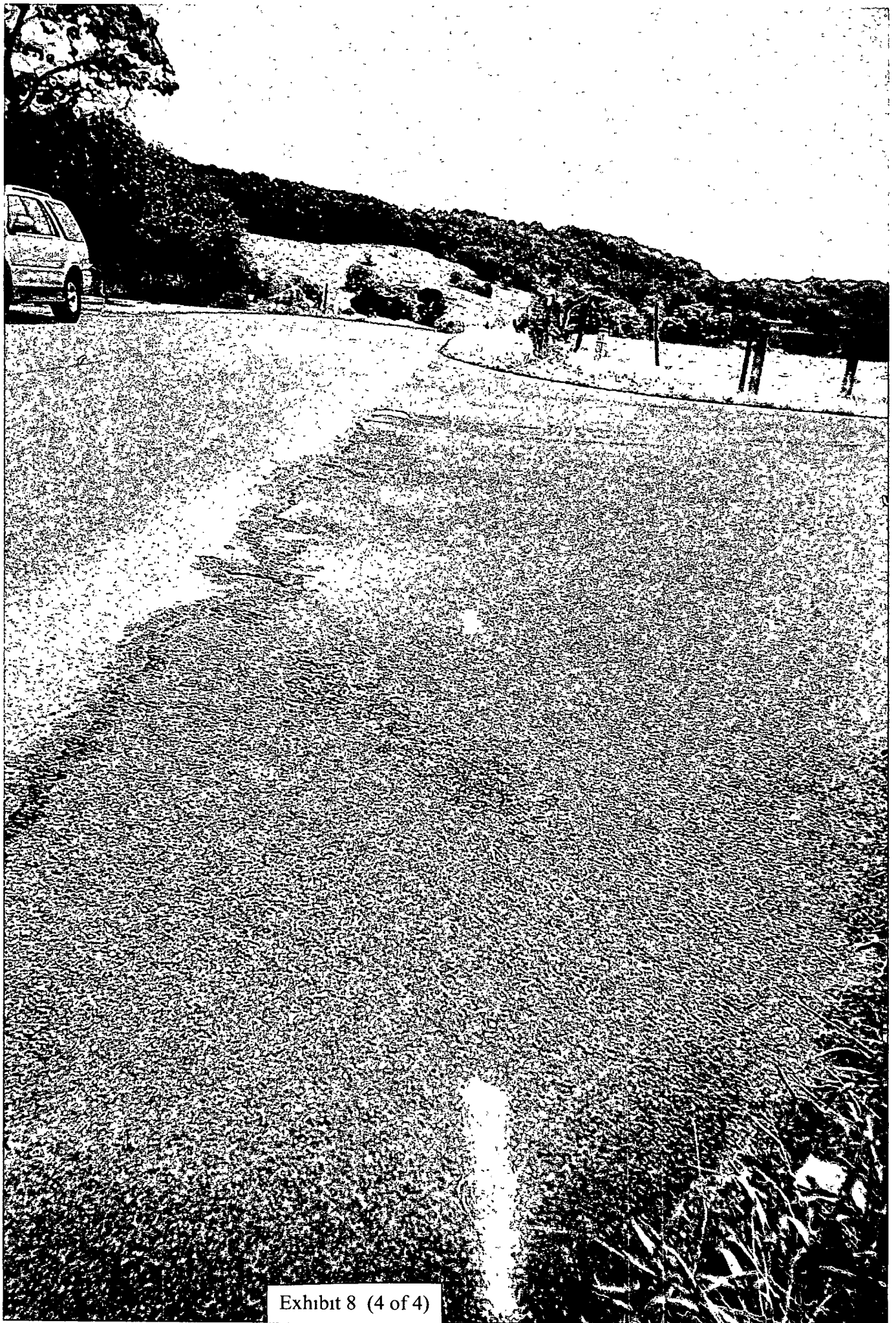


EXHIBIT 9
(following 9 pages)

Operations & Maintenance Manual Athens Utilities Board

Section 4 0

DAMAGE PREVENTION PROGRAM

192 614

Page No

4 1	Damage Prevention Requirements	4 1-1
4 2	Compliance	4 2-1, -2
4 3	Receipt of Calls from "One Call"	4 3-1
4 4	Marking of Pipelines	4 4-1
4 5	Listing of Excavators	4 5-1, -2, -3

Revised Date 12/04

Approved By _____ Date _____

Approved By _____ Date _____

Operations & Maintenance Manual

Athens Utilities Board

4.1 Damage Prevention Requirements

4.1.1 A Damage Prevention Program is required under Section 192.614 of the Department of Transportation, Minimum Federal Safety Standards

4.1.2 The essential requirements of the program must include the following provisions

- ♦ Identifying persons who normally engage in excavation activities (Contractors),
- ♦ Provide for notification of excavators and the general public about the program's existence,
- ♦ A program to receive location requests from excavators and from the general public,
- ♦ A program to contact excavators, and
- ♦ A program to mark the pipeline

4.1.3 Purpose

The Damage Prevention Program is designed to prevent damage to underground facilities caused by excavating activities. In addition to excavating it includes blasting, boring, tunneling, backfilling, and the removal of above-ground structures by either explosive or mechanical means

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Operations & Maintenance Manual

Athens Utilities Board

4 2 Compliance

4 2 1 Identify Excavation Contractors

- ♦ Superintendent or his designated representative shall be responsible for the identification of the excavators
- ♦ To assist in preparing this list contacts can be made with the one call center, telephone company, electric and co-op utilities, water and sewer utilities, city, county and state governments, reference to the yellow pages, and other local services
- ♦ Identification of contractors shall be maintained on a continuing basis and shall be upgraded as new information is received

4 2 2 Notification of Contractors

Superintendent or delegate will insure that a letter is sent once each year, preferably in March, to each excavator which will include the following information

- ♦ The existence and purpose of the Damage Prevention Program,
- ♦ How to determine the location of underground facilities before excavating begins,
- ♦ The address and phone number of the One-Call System operating areas,
- ♦ How the gas company will respond to requests from One-Call to locate facilities,
- ♦ How the utility will mark its facilities,
- ♦ Include the address and phone number of the local gas company's office or operations center, and
- ♦ For emergency use, include the after hour calls phone number

If the Superintendent or delegate elects to have a third party, i.e. state one-call system, provide the annual notice to the contractor, their annual standard letter shall be considered compliance with this section

4 2 3 Notification of the General Public

The general public will be informed of the Damage Prevention Program by one or more of the following means

- ♦ Newspaper or magazine advertisement
- ♦ Radio or TV broadcast
- ♦ Messages on gas bills

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- ♦ Notice in directories of the telephone yellow pages
- ♦ Hand outs
- ♦ By speakers addressing local groups
- ♦ During school programs

All messages should emphasize the need to call the "One Call System" when anyone has a need to excavate on public or private property. Further explain how the utilities will respond and locate underground facilities.

4.2.4 Letter

Dear

Federal and State regulations require Athens Utilities Board to have a Damage Prevention Program in order to prevent damage to its underground facilities. Damage to our facilities is often caused by excavating, boring, tunneling, backfilling, or removal of above ground structures. The purpose of this letter is to inform you of your responsibilities to have all facilities located before you begin the activities mentioned above, and how Athens Utilities Board and the "One Call System" can assist you.

For your convenience Athens Utilities Board and other utilities have joined a "One Call System." All you have to do is call the "One Call" number and provide them with the information concerning your work. They in turn will alert the utilities that are participating in the "One Call" program.

ONE CALL SYSTEM OF TENNESSEE 1-800-351-1111

Within 72 hours, Athens Utilities Board will investigate the area of your work, and mark in yellow paint, flags, or stakes where our pipelines are located. Every effort is made to place the markings directly above the pipe, but could vary two feet in either direction. Depth is not usually indicated, requiring extreme caution while excavating in close proximity of a marked facility. It is highly recommended that pipelines be exposed by hand digging.

In the event of an emergency, please call us at (423) 745-4501. Someone will be able to assist you.

Damaging a gas line is extremely hazardous and can result in an explosion, fire, death, severe injury, destruction and costly litigation. You can, and most likely will, be held liable for all potential liabilities caused by neglecting to have facilities properly located or exercising improper excavation procedures. This is the reason we are making this effort to advise you of your responsibilities and steps to take to prevent unnecessary damage and public harm.

If you have any need of assistance or help, please let us know. We are committed to assist you in any way we can.

Sincerely yours,

Page 4.2-2

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	Approved By _____	Date _____

Operations & Maintenance Manual

Athens Utilities Board

4 3 Receipt of Calls from "One Call"

4 3 1 All facsimiles from the state "One Call" system for Underground Facilities Location Request shall be recorded

4 3 2 When notification of "Request For Location" is received from "One Call Systems" by fax or tele-type, a copy of this request will serve as a work order. The employee locating the facility shall record all pertinent information on the request

4 3 3 Follow Up Recommendation

- ♦ Follow-up of line locations must include areas where blasting occurs, but may include any excavation which the inspector deems necessary to recheck
- ♦ The recheck will be recorded before the locate ticket is turned in as completed. A leak survey is required after blasting activities

4 3 4

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Operations & Maintenance Manual

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4 4 Marking of Pipelines

4 4 1 Pipelines shall be located with the use of "Pipeline Locating Instruments." It will be stated in letters as well as personal contacts with contractors, that the markings represent only approximate horizontal positions of the facility and to verify the precise location that should be exposed by hand digging. The location will be marked by spraying with yellow paint, or the installation of stakes or flags.

For information the national marking color codes for utilities are listed as follows:

- Safety Yellow Gas or Oil Pipelines
- Safety Blue Water Systems
- Safety Green Sewer Systems
- Safety Red Electrical Power
- Safety Orange Communications Systems
- Safety White Excavation

Locations are approximations and may vary 24" from the centerline of the pipeline.

4 4 2 Responsibility

The Superintendent is responsible for maintenance of records.

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Approved By _____ Date _____

Approved By _____ Date _____

Operations & Maintenance Manual Athens Utilities Board

45 Listing of Excavators

The following is a list of current excavators that operate in McMinn County, Tennessee. This list is kept in compliance with the U.S. Department of Pipeline Safety Regulations, Part 192.14.

Advanced Mechanical Systems P.O. Box 1148, Athens, TN 745-2595
Contact: Phil Fletcher, Owner

Arnett Heating & Air 312 Congress Pkwy, Athens, TN 745-9279
Contact: Tom Arnett, Owner

Athens Cablevision 408 S. White St., Athens, TN 745-6480
Contact: Sam Wattenbarger, Foreman

Athens Public Works Dept. 219 Alford St., Athens, TN 745-3140
Contact: Calvin Clifton, Director

Renfro 105 Co. Rd. 173, Athens, TN 745-9281
Contact: Buddy Browder

Billy's Heat & Air 111 North Ave., Athens, TN 744-7428
Contact: Billy Baxter, Owner

Crisp Excavating 573 Co. Rd. 213, Athens, TN 745-1949
Contact: Clyde Crisp, Owner

Clifford Hampton Construction 1009 Co. Rd. 172, Athens, TN 745-1352
Contact: Clifford Hampton, Owner

Curtis-Martin Company 284 Co. Rd. 197, Athens, TN 745-1500
Contact: Bill Curtis / Lamar Martin

E & B Contractors 219 Pike St., Athens, TN 745-8392
Contact: Ernest Wattenbarger, Owner

Evans Excavating 2109 Ingleside Ave., Athens, TN 745-7163
Contact: Buster Evans, Owner

East Tennessee Natural Gas Knoxville Office 629-4667
Contact: Dispatch Office

Englewood Water Dept. P.O. Box 150, Englewood, TN 887-7224

Feezell's Plumbing 402 Athens St., Englewood, TN 745-9053
Contact: Dewey Feezell, Owner

Ford Excavating 1472 Hwy. 30W, Athens, TN 745-2498

Guinn Trenching 135 Co. Rd. 307, Athens, TN 745-7166
Contact: Jess Guinn, Owner

Revised Date 12/04	Approved By: _____	Date: _____
	Approved By: _____	Date: _____

Operations & Maintenance Manual Athens Utilities Board

Listing of Excavators (continued)

J W Irons 164 Co Rd 126, Athens, TN 745-5225
Contact J W Irons, Owner

King Excavating 121 Co Rd 213, Athens, TN 745-6648

Martin Construction P O Box 561, Athens, TN 744-7507
Contact James Martin, Owner

McKinney Excavating 1593 Hwy 30E, Athens, TN 745-1700
Contact Mack McKinney, Owner

McMinn Co Hwy Dept Knoxville Hwy, Athens, TN 745-1820
Contact Jim Bishop

Monroe Backhoe Service 189 Co Rd. 210, Athens, TN 745-1035
Contact Richard Monroe, Owner

Monroe Paving Co Lost Sea Pike, Sweetwater, TN 337-4252

Morgan Well Drilling 189 Co Rd 554, Athens, TN 745-2567
Contact Tony Morgan

Niota Waterworks 201 E Main St, Niota, TN 568-2584
Contact Jim Clark, Foreman

Pilkey Excavating 541 Co Rd 442, Athens, TN 745-9247

Plantation Pipeline Chattanooga Office 892-7626
Contact James Baker

Pryor Excavating 660 Co Rd 181, Athens, TN 744-0099

Riceville Waterworks Hwy 11, Riceville, TN 462-2272

Schultz Plumbing 258 Co Rd 705, Athens, TN 745-4581
Contact Don Schultz, Owner

South Central Bell Regional Office, Athens, TN 745-9071

Star Construction Knoxville, TN 1-800-824-6488
Contact Clark Post, Engineer

Stephens Excavating 299 Co Rd 360, Niota, TN 568-2924
TDS Telephone Tellico Plains, Tn 568-2105
Contact Office

Thomas Builders 416 N Cong Pkwy, Athens, TN 745-5849
Contact Office

Revised Date 12/04

Approved By _____ Date _____

Approved By _____ Date _____

Operations & Maintenance Manual Athens Utilities Board

Listing of Excavators (continued)

Valley Electric & Plumbing 112 Starrett St , Sweetwater, TN 337-6200
Contact Billy West, Owner

Volunteer Electric Coop Hwy 58, Decatur, TN 334-5721
Contact Jim Buchanan

Walden Excavating 821 Wilson St , Niota, TN 568-2624

Webb Plumbing & Heating P O Box 847, Athens, TN 745-3590
Contact Bill Vicars, Owner

White Excavating 135 Co Rd 659, Athens, TN 745-4429
Contact Larry White, Owner

Womac Excavating 287 Co Rd 309, Niota, TN 568-2966
Contact Ransom Womac, Owner

Revised Date 12/04

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Approved By _____ Date _____

EXHIBIT 10
(following 2 pages)

From "Bob Ingram" <bingram@aub.org>
To "Eric Cherry" <Eric.Cherry@state.tn.us>
Date 8/3/2004 8:44:50 AM
Subject RE: questions answered

Yes. All personnel have been qualified. And yes, we do have the records.

Bob Ingram
Superintendent
Division of Natural Gas
Athens Utilities Board
423-745-4501
423-829-5204

-----Original Message-----

From: Eric Cherry [mailto:Eric.Cherry@state.tn.us]
Sent: Tuesday, August 03, 2004 8:52 AM
To: Bob Ingram
Subject: RE: questions answered

Was he OQ qualified in pipe locating?

>>> "Bob Ingram" <bingram@aub.org> 8/3/2004 6:26:47 AM >>>
The individual was Brad Hester

Bob Ingram
Superintendent
Division of Natural Gas
Athens Utilities Board
423-745-4501
423-829-5204

-----Original Message-----

From: Eric Cherry [mailto:Eric.Cherry@state.tn.us]
Sent: Monday, August 02, 2004 2:53 PM
To: Bob Ingram
Subject: Re: questions answered

Bob,

Who was the individual who was responsible for the locate?

I'll give you a call here in a little bit.

Eric

>>> "Bob Ingram" <bingram@aub.org> 8/2/2004 1:33:40 PM >>>
Eric,

Here are my responses to your questions. I hope this is satisfactory.
Please call me after you look this over.

Thanks,

Bob Ingram

Superintendent

Division of Natural Gas

Athens Utilities Board

423-745-4501

423-829-5204

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EXHIBIT 11
(following 5 pages)

RECEIVED 8/16/04

Attached is the failure report

Bob Ingram

Superintendent

Division of Natural Gas

Athens Utilities Board

423-745-4501

423-829-5204

Failure Investigation
Athens Utilities Board
16 August 2004

Robert S. Ingram
Superintendent
Division of Natural Gas

Pursuant to DOT 192.617

County Road 100, McMinn County

Incident in General

- 1) 16 July 2004 a failure occurred in a four inch distribution main, operating at 20 psig. The MAOP of the main is 66 psig. The main was medium density polyethylene manufactured by Driscopipe with the specifications of DR 11.5, PE 2406, CEC ASTM D2513, and manufactured 12 July 2000.
- 2) The failure location was McMinn County Road 100 at the intersection of County Road 62.
- 3) The immediate cause of the failure was a horizontal boring machine's auger cutting into the pipe. The boring machine was being operated by C. P. Asberry Construction. C. P. Asberry was working as a sub contractor to Green Brothers Construction. Green Brothers were installing a water distribution main for Riceville Utility District.
- 4) The breach of the pipe caused the release of gas resulting in a fire.
- 5) The resulting fire caused injury to one of the two operators of the boring machine. The operator was air lifted to Erlanger Hospital Burn Unit in Chattanooga. He received second degree burns to his hands, arms and the side of his face. He was kept in the intensive burn care unit until 19 July 2004. He has since been released from the hospital and is undergoing rehabilitation.

Contributing Factors

- 1) Asberry Construction requested a location via Tennessee One - Call, locate number 041900438, 07 July 2004. The request was for the intersection of County Roads 62 and 100 with additional marking 200 feet N/NW along County Road 100.
- 2) Green Brothers also requested a location via Tennessee One - Call, locate number 041951933, 13 July 2004. The request was for the intersection of County Roads 62 and 100 with additional marking 500 on both sides of the intersection along County Road 100.
- 3) The two locates were handled by different AUB employees. The locate request by Asberry Construction was made by a substitute locator employee as the regular locator employee was on vacation the day the location request came in.
- 4) Green Brothers had been working in the area for some time prior to the incident. AUB's normal locating personnel had worked closely with Green Brothers ensuring the areas they were working in were marked.
- 5) When the locate request by Green Brothers was received the employee believed Green Brothers were working in an area where there were no AUB gas lines.
- 6) The incident occurred 54 feet N/NW along County Road 100.
- 7) The intersection was well marked.
- 8) Location marks were visible for 26 feet along County Road 100.
- 9) No additional location marks were visible.

Conclusions

- 1) AUB failed on both occasions to correctly follow location request (e g intersection was marked by not additional footage along County Road 100)
- 2) AUB's failure to completely mark the area as requested resulted in the contractor believing the area was clear of natural gas piping
- 3) The contractor's belief that there was no natural gas piping preventing him from boring at a sufficient depth to miss the distribution main
- 4) Hitting the pipe with the boring auger caused a breach in the side of the pipe resulting in a sudden leak of natural gas
- 5) The combustion source is unknown

CIVIL PENALTY SCHEDULE

In determining the civil penalty for each violation, the following state and federal statutes were considered, Tennessee Code Annotated, Section 65-28-108

“(a) Any person who violates any provision of §§ 65-28-104 -- 65-28-111, or of any regulation issued under such sections, is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars (\$500,000) for any continuing series of violations

(b) Any civil penalty may be compromised by the authority. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, shall be paid within thirty (30) days after the determination to the authority, to be used for the purposes of §§ 65-28-104 -- 65-28-111, and, if not paid within such time, may be recovered in a civil action brought by the authority in the chancery court of any county in which a violation exists [Acts 1970, ch. 558, § 6, T C A, § 65-2809, Acts 1991, ch. 439, § 2; 1995, ch. 305, § 36.]”

The Pipeline Safety Act (Public Law 90-481; 49 U.S.C. § 1671 et seq.) addresses the federal statute pertaining to violations of the Minimum Federal Safety Standards, Section 60122 states

“(a) GENERAL PENALTIES.

(1) A person who the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated Section 60114(c) or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$100,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is \$1,000,000.

(2) A person violating a standard or order under Section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than \$100,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(b) PENALTY CONSIDERATIONS

In determining the amount of a civil penalty under this section, the Secretary shall consider –

- (1) the nature, circumstances, and gravity of the violation, including adverse impact to the environment
- (2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business,
- (3) good faith in attempting to comply,
- (4) the economic benefit gained from the violation without any reduction because of subsequent damages, and
- (5) other matters that justice requires

(c) COLLECTION AND COMPROMISE

- (1) The Secretary may request the Attorney General to bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed under this section
- (2) The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General

(d) SETOFF

The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty

(e) DEPOSIT IN TREASURY

Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts

(f) PROHIBITION ON MULTIPLE PENALTIES FOR SAME ACT

Separate penalties for violating a regulation prescribed under this chapter and for violating an order under Section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act ”

In assessing the amount for the violation, we took into consideration the nature of the violation, the notices you have received from the Federal Office of Pipeline Safety and Tennessee Regulatory Authority in an Alert Notice and informational mailings concerning compliance with pipeline safety rules and regulations. An amount of \$10,000 per violation was used in determining the civil penalty in accordance with TCA § 65-28-104. The violation amount was multiplied by the number of days the violation was outstanding times the size of the natural gas distribution system, and divided by the public safety factor. See the formula, public safety factor, length of time violation was outstanding and total amount for each violation listed below. In consideration of our state statute, the total civil penalty assessed is \$15,000.

Formula

$$\text{Civil Penalty Amount} = \frac{\text{Violation} \times \text{Number of days} \times \text{Size of natural gas distribution system}}{\text{Public safety factor number}}$$

Public Safety Factor

<u>Factor Number</u>	<u>Type of Violation</u>
1 00	Priority 1 - Any violation which, if not immediately corrected, could present a hazardous condition to life, property or both
2 0	Priority 2 - Any violation which needs prompt attention because the failure to correct could result in loss of service and / or reliability to the customer
3 0	Priority 3 - Any violation which needs attention because the operator has failed to complete or schedule maintenance activities.

<u>Factor Number</u>	<u>Size of Natural Gas Distribution System</u>
35	1 to 2,000 gas meters
50	2,001 to 10,000 gas meters
65	10,001 to 50,000 gas meters
1 0	50,000 or more

Athens Utility Board
Natural Gas Pipeline Incident
July 16, 2004

<u>Violation</u>	<u>Formula</u>	<u>Maximum Civil Penalty</u>
192.614 (c)5	$\frac{\$10,000 \times 3 \times 0.50}{1} \quad \frac{15,000}{1}$	= \$15,000

Potential Maximum Civil Penalty = **\$15,000**

Note The three (3) days used to assess these penalties was derived from the days the Tennessee One-Call ticket was in effect for the facilities to be located, July 13, 2004 to the day the incident occurred, July 16, 2004

Potential Federal Civil Penalty

<u>Violation</u>	<u>Formula</u>	<u>Maximum Civil Penalty</u>
192 614 (c)5	$\frac{\$100,000 \times 3 \times 0.50}{1} \quad \frac{150,000}{1}$	= \$150,000

Potential Maximum Federal Civil Penalty = **\$150,000**